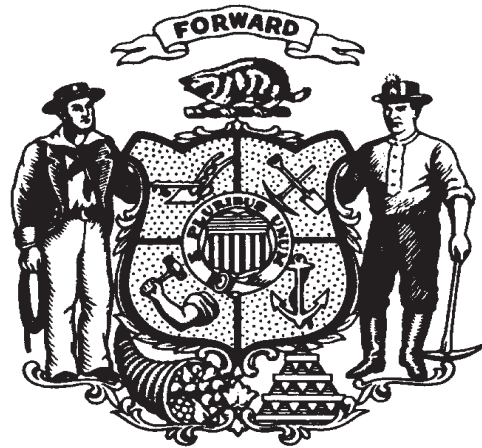


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WISCONSIN ADMINISTRATIVE REGISTER

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Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

Occasionally the Legislature grants emergency rule authority to an agency with a longer effective period than 150 days or allows an agency to adopt an emergency rule without requiring a finding of emergency.

Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency or a statement of exemption from a finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.

Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at www.legis.state.wi.us/rsb/code.

Beginning with rules filed with the Legislative Reference Bureau in 2008, the Legislative Reference Bureau will assign a number to each emergency rule filed, for the purpose of internal tracking and reference. The number will be in the following form: EmR0801. The first 2 digits indicate the year of filing and the last 2 digits indicate the chronological order of filing during the year.

Agriculture, Trade and Consumer Protection (2)

1. **EmR0913** — Rule adopted revising **s. ATCP 21.17**, relating to the quarantines of Brown County and Kenosha County for emerald ash borer.

Finding of Emergency

On July 24, 2009, APHIS identified emerald ash borer in Brown County. On August 12, 2009, APHIS identified emerald ash borer in Kenosha County. Emerald ash borer is an exotic pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for emerald ash borer under ATCP 21.17. It is anticipated that APHIS will declare quarantines for Brown County and Kenosha County but that it will take up to six weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially emerald ash borer infested material out of the county to areas of Wisconsin or other states that are not infested with emerald ash borer.

DATCP is adopting this rule as a temporary emergency rule, pending completion of federal quarantine regulations. DATCP does not anticipate completing a permanent rule.

Publication Date: August 22, 2009

Effective: August 22, 2009 through January 18, 2010

Hearing Dates: September 29 and 30, 2009

2. **EmR0922** — Rule adopted revising **s. ATCP 21.17**, relating to the quarantines of Milwaukee County, Racine County and Waukesha County for emerald ash borer.

Finding of Emergency

On August 28, 2009, APHIS identified emerald ash borer in Milwaukee County, near the borders of Racine County and Waukesha County. Emerald ash borer is an exotic pest that poses a dire risk to the ash forest. When APHIS declares quarantine, DATCP has regulatory authority for import controls and quarantine for emerald ash borer under ATCP 21.17. It is anticipated that APHIS will declare quarantines for Milwaukee County, Racine County and Waukesha County but that it will take up to six weeks for APHIS to act. A six week delay until enactment of the federal quarantines leaves too much time for businesses or individuals to move potentially emerald ash borer infested material out of the county to areas of Wisconsin or other states that are not infested with emerald ash borer.

DATCP is adopting this rule as a temporary emergency rule, pending completion of federal quarantine regulations. DATCP does not anticipate completing a permanent rule.

Publication Date: September 14, 2009

Effective: September 14, 2009 through February 10, 2010

Hearing Date: October 15, 2009

(See the Notice in this Register)

Children and Families

Family and Economic Security, Chs. DCF 101–153

- EmR0906** — Rule adopted revising **ss. DCF 120.05, 120.07 and 120.08**, relating to emergency assistance for needy families.

Finding of Emergency

The Department of Children and Families finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The recent large increase in foreclosures has caused tenants living in rental properties that are in foreclosure to lose their housing. Under the current rule, these tenants are not eligible for Emergency Assistance due to impending homelessness and would only be able to receive assistance if they became homeless. This emergency rule will allow these tenants to receive assistance for impending homelessness and avoid the additional expense and trauma of homelessness.

The current maximum payment amounts for Emergency Assistance due to homelessness and impending homelessness are insufficient to allow a smaller family to obtain or retain a permanent living accommodation. Increasing the payments for smaller households immediately will help them obtain or retain a permanent living accommodation with fewer resources from other sources and may prevent homelessness for these families.

The current rule has no maximum payment amount for Emergency Assistance due to an energy crisis. All other categories of assistance have a maximum payment based on group size. This emergency rule requires that families first exhaust resources available through the Wisconsin Home Energy Program and sets a maximum payment amount for assistance available for Emergency Assistance due to energy crisis to make better use of the program's limited funds.

Publication Date: April 9, 2009
Effective: April 22, 2009 through September 18, 2009
Extension Through: November 17, 2009
Hearing Date: June 11, 2009

Children and Families

Family and Economic Security, Chs. DCF 101–153
Early Care and Education, Chs. DCF 201–252

EmR0908 — Rules adopted amending s. DCF 101.09 (3) (b) and creating ss. DCF 101.09 (3) (b) 1. b., 101.26 (3), and 201.08 (2) (g), relating to Wisconsin Works and Wisconsin Shares disregard of temporary census income.

Finding of Emergency

The Department of Children and Families finds that an emergency exists and that the rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

Disregarding income earned from temporary employment with the U.S. Census Bureau in determining Wisconsin Works and Wisconsin Shares eligibility and child care copayments is necessary for the public welfare to ensure Wisconsin has a broad pool of available workers to help ensure an accurate Census count, particularly in historically undercounted low-income neighborhoods. Census work is currently ongoing.

Publication Date: May 28, 2009
Effective: June 1, 2009 through October 28, 2009
Hearing Date: July 14, 2009

Commerce

Licenses, Certifications and Registrations, Ch. Comm 5
Wis. Commercial Building Code, Chs. Comm 60–66

EmR0904 — Rule adopted creating ss. Comm 5.30 and 61.295, relating to building contractor registration.

Finding of Emergency

The Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows:

1. Under Chapter 560 of the Statutes, the department of commerce is charged with facilitating the establishment and retention of business enterprises in Wisconsin, and with seeking closer cooperation and coordination between units of state government, so that the economy of the state may continue to develop fully and meet citizen and community needs.

2. Under Chapters 101 and 145 of the statutes, the department of commerce has oversight over the design,

construction, alteration and maintenance of public buildings and places of employment, one- and two- family dwellings, public swimming pools and public water attractions in order to protect public safety, health and welfare and the waters of the state.

3. The department has proposed an administrative rule that would require the registration of various types of building contractors not already credentialed by the department under existing administrative rules. Under the proposed rules contractors must be registered with the department by January 1, 2010. A public hearing on that proposal was held on January 21, 2009.

4. The proposed rule has three main benefits to Wisconsin: first, it will enhance the department's ability to communicate with and educate building contractors throughout the state about their obligations to limit safety and health risks for the citizens of Wisconsin; second, it will enhance the ability of the department to cooperate and coordinate with the Department of Workforce Development relative to their administration of unemployment insurance and workers compensation insurance programs; and third, it will enhance the ability of the department to cooperate and coordinate with the Department of Revenue relative to their administration of the state income tax program.

5. Due to the current economic circumstances, the department has determined that the implementation for building contractor registration should be July 1, 2009 in order for the benefits to be in effect for the 2009 building construction season.

Publication Date: March 2, 2009
Effective: March 2, 2009 through July 29, 2009
Extension Through: November 26, 2009
(except ss. Comm 5.30 (1) and 61.295 (2))
Effective: July 1, 2009 through November 27, 2009
Hearing Date: March 31, 2009

Commerce

Uniform Dwelling, Chs. Comm 20–25

EmR0917 — Rule adopted revising Ch. Comm 22, relating to energy conservation.

Finding of Emergency

The Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

1. Recently, chapter Comm 22, relating to energy conservation, was repealed and recreated to bring the Wisconsin requirements in line with the national model energy code. Effective April 1, 2009, chapter Comm 22 incorporates new prescriptive requirements that apply to individual components such as walls, windows, skylights, doors and ceilings. Within that subsection is section Comm 22.31 (2) (a), that allows the use of a "total dwelling thermal envelope" method, and (2) (b), that allows the use of REScheck software, version 4.1.0, or later, to calculate compliance with the Uniform Dwelling Code thermal envelope requirements.

2. The U.S. Department of Energy's Building Energy Codes Program develops and distributes REScheck software. The software program simplifies and clarifies residential code compliance with the Model Energy Code (MEC) and the

International Energy Conservation Code (IECC). REScheck software makes it easier for designers, builders, product manufacturers and code officials to comply with energy codes based on the IECC or ASHRAE/IESNA Standard 90.1 requirements. Also, REScheck can be tailored to meet state-specific codes.

3. The department included the REScheck software edition requirement in anticipation that Version 4.1.0 would be compatible with the current code. Working with Pacific Northwest Laboratories, who contracts with the U.S. Department of Energy to develop the REScheck software, the department developed state-specific energy calculations that were not incorporated into REScheck software until Version 4.2.2. The calculations that reflect the current code are identified in the software as “Wisconsin 2009.” Versions prior to 4.2.2 do not have the code choice “Wisconsin 2009.”

4. Previous versions of REScheck, including Version 4.1.0, do not meet nor support the requirements of Wisconsin’s current energy code. In fact, Version 4.1.0 includes other values, such as gross wall trade-offs and appliance credits that are not included in chapter Comm 22 that became effective April 1, 2009.

5. The department recognizes that without promulgating this emergency rule, there would be confusion and miscalculations surrounding the use of Version 4.1.0 and other previous and out-of-date versions of REScheck software to calculate compliance with Uniform Dwelling Code thermal envelope requirements.

Publication Date: September 5, 2009
Effective: September 5, 2009 through February 1, 2010
Hearing Date: October 21, 2009
 (See the Notice in this Register)

Commerce

Financial Resources for Businesses and Communities, Chs. Comm 104—

EmR0910 — Rule adopted to create **Chapter Comm 100**, relating to tax benefits for job creation, capital investment, employee training, and corporate headquarters.

Exemption From Finding of Emergency

The Legislature, by section 9110 (4) in 2009 Wisconsin Act 2, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of the public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Publication Date: June 30, 2009
Effective: June 30, 2009 through July 1, 2010 or the date permanent rules take effect, whichever is sooner
Hearing Date: September 15, 2009

Corrections

EmR0920 — Rule adopted revising s. DOC 309.466, relating to inmate release accounts.

Finding of Emergency

The Department of Corrections finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of public peace, health, safety and welfare. A statement of facts constituting the emergency is:

Under 2009 WI Act 28, an increased number of inmates are being considered for release. In addition, the department has developed a number of release initiatives to address an inmate’s successful transition from incarceration to community life. As part of those initiatives, there are costs associated with that transition, including acquiring housing, employment, and transportation. For example, an inmate must have a social security card, a driver’s license or state identification card, the first months rent and security deposit for an apartment, and civilian clothing.

Under the current rule, an inmate may only use release account funds for “adequate clothing for release” and for “out-of-state release transportation.” In addition, the rule limits the maximum amount of money which can be saved in the release account to \$500.00. The emergency rule immediately permits the use of release account money for a wide variety of purchases, including fees associated with obtaining a driver’s license or state identification card, housing, and a mode of transportation (bus tickets, vehicle, bicycle, etc.). In the past the Department has borne some of these costs, despite an inmate having the money in his or her release account. Given the initiatives of reentry and release, an inmate should be responsible for these expenditures.

In addition, the emergency rule raises the limit on release accounts from \$500.00 to \$5,000.00. Since the current limit was established, the cost of living in the community has risen. The department seeks this change to reflect the significant costs of housing, transportation, and food and other necessities.

If the rule is not created promptly and immediately, the department will not be able to use inmate release account funds to pay for items which inmates need in preparation for their release to the community. The purpose of the emergency rule is to permit inmates to use release account funds for a greater range of expenditures related to their release from incarceration and transition back into the community. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to respond promptly to the need to use inmate funds, not state funds, while permanent rules are being developed.

Publication Date: September 10, 2009
Effective: September 10, 2009 through February 6, 2010
Hearing Date: October 14, 2009
 (See the Notice in this Register)

Financial Institutions — Banking

EmR0907 — Rule adopted to create **Chapter DFI-Bkg 47** and to repeal **Chapter DFI-Bkg 41**, relating to the transition from a registration system to a license system.

Exemption From Finding of Emergency

The legislature by section 9117 of 2009 Wisconsin Act 2 provides an exemption from a finding of emergency for the adoption of the rule.

Publication Date: May 4, 2009
Effective: *Section 1:*
 5-4-09 through 7-1-11
Section 2:
 9-1-09 through 7-1-11
Section 3:
 1-10-10 through 7-1-11
Hearing Date: June 10, 2009

Insurance

EmR0918 — Rule adopted to revise **Chapter Ins 6**, relating to exempting commercial umbrella and commercial liability policies covering only hired and non-owned autos from having to offer or include uninsured and underinsured motorist coverage.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

Act 28 (2009) modified the requirements for auto insurance in Wisconsin. Most of these new provisions go into effect on November 1, 2009. These modifications did not specifically address the issue of insurers who write commercial liability insurance and commercial umbrella policies which insure only hired and non-owned automobiles (“HNO”) under the policy but do not insure any automobiles owned by the insured.

If these new Act 28 requirements apply to commercial liability insurance and commercial umbrella policies which insure only hired and non-owned automobiles (“HNO”) under the policy, this creates a significant problem. Some of these insurers do not have authority to write auto insurance which is needed to write uninsured (“UM”) and underinsured coverage (“UIM”). Other insurers offering the commercial umbrella and commercial liability HNO have not ever written UM/UIM coverages because the current rules exempt them. Insurers have also stated that obtaining reinsurance for this is a problem.

This issue was addressed in 1997 when an emergency rule was promulgated and modifications to Ins 6.77 were enacted in response to various court cases. In that process, commercial insurers who wrote liability policies that covered only HNO were exempted from the requirement to offer or include UM/UIM coverage. This emergency rule would continue this exemption so that the market for commercial liability insurance and commercial umbrella policies is not disrupted.

Publication Date: September 9, 2009
Effective: November 1, 2009 through March 30, 2010

Natural Resources

Fish, Game, etc., Chs. NR 1—

EmR0914 — Rule adopted to revise **Chapter NR 10**, relating to hunting and the 2009 migratory game bird seasons and waterfowl hunting zones.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect

the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid-August of each year. This order is designed to bring the state hunting regulations to conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Publication Date: August 22, 2009
Effective: September 1, 2009 through January 28, 2010

Natural Resources

Environmental Protection — Water Regulation, Chs. NR 300—

EmR0915 — A rule adopted revising **Chapters NR 335 and 336**, relating to grants for dam maintenance, repair, modification, or abandonment and removal.

Finding of Emergency

The substantial increase in bonding for the dam grant programs is a strong message from the legislature that concern for public welfare from unsafe dams is growing, as well as the desire to help dam owners, including the owners of the many dams damaged during the flooding in 2007 and 2008. In order to protect the public and provide this financial assistance, these additional funds should be put to work as soon as possible. The timeline for permanent rule promulgation will impede the Department’s ability to accept applications and commit funding to dam safety projects until at least June 2010, which would delay most projects until late 2010 or 2011. The emergency rules will allow immediate implementation of modifications that will allow a grant application cycle to be conducted yet this fall and allow most projects to be constructed during the 2010 construction season or before.

Publication Date: August 28, 2009
Effective: August 28, 2009 through January 24, 2010

Pharmacy Examining Board

EmR0903 — A rule adopted repealing s. **Phar 4.02 (2)**, relating to the practical examination.

Finding of Emergency

The Pharmacy Examining Board finds that, under s. 227.24 (1), Stats., the repeal of s. **Phar 4.02 (2)** is required for the preservation of the public peace, health, safety and welfare.

Currently, under s. **Phar 4.02 (2)**, the board administers a practical examination to determine an applicant’s competence in compounding and dispensing medications, which includes consultation of patients. The board has determined that this examination is no longer needed because the competencies tested in the examination are also tested in two other national examinations that applicants are required to take in order to obtain a license in Wisconsin. The board has also determined that the practical examination requirement may contribute to the shortage of pharmacists in Wisconsin.

First, under s. Phar 4.02 (1) and (3), an applicant is required to take and pass the Multi-State Pharmacy Jurisprudence Examination (MPJE) and the North American Pharmacist Licensure Examination (NAPLEX). Both of these examinations test competencies that relate to subject areas that are also tested in the practical examination. As a result, applicants are required to take an additional examination, and pay an additional examination fee. In some instances, this step may also result in a delay in the processing of applications for licensure.

Second, in reference to the shortage of pharmacists in Wisconsin, the board has found that populations in rural areas and in certain city neighborhoods are underserved. The board believes that, because of its practical examination requirement, potential applicants from other states are declining to seek licensure in Wisconsin. Wisconsin is one of only four states that require a practical examination. None of the states that border Wisconsin have a practical examination requirement.

Publication Date: February 28, 2009
Effective: February 28, 2009 through July 27, 2009
Extension Through: November 24, 2009
Hearing Date: April 8, 2009

Public Instruction (2)

1. **EmR0916** — A rule adopted revising ss. **PI 35.03 and 35.05**, relating to establishing a fee under the Milwaukee Parental Choice Program.

Exemption From Finding of Emergency

Pursuant to Section 9139 (3) of the nonstatutory provisions of 2009 Wisconsin Act 28, the Department of Public Instruction is not required to provide evidence that this rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency.

Publication Date: September 1, 2009
Effective: September 1, 2009 through January 28, 2010

(Except Section 1)

Effective: October 1, 2009 through February 27, 2010

Hearing Date: October 26, 2009

(See the Notice in this Register)

2. **EmR0921** — Rule adopted to create **Chapter PI 15**, relating to revenue limit exemptions for energy efficiencies.

Exemption From Finding of Emergency

Pursuant to Section 9139 (2x) of the nonstatutory provisions of 2009 Wisconsin Act 28, the Department of Public Instruction is not required to provide evidence that this rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency.

Publication Date: September 4, 2009
Effective: September 4, 2009 through January 31, 2010
Hearing Date: November 9, 2009
 (See the Notice in this Register)

Public Service Commission

EmR0919 — Rule adopted to create **Chapter PSC 172**, relating to the police and fire protection fee created under 2009 Wisconsin Act 28.

Finding of Emergency

The Commission finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. The police and fire protection fee, which must go into effect September 1, 2009, (2009 Wisconsin Act 28 section 9441) will be used to replace shared revenue payments for such services. To ensure the public peace, health, safety, and welfare of the citizens of Wisconsin, it is vital for funding of police and fire protection services to continue smoothly, quickly, and unimpeded. Thus, it is necessary for the rule administering the fee to be implemented as soon as possible.

Publication Date: September 11, 2009
Effective: September 11, 2009 through February 7, 2010

Regulation and Licensing (2)

1. **EmR0827** — Rule adopted creating **s. RL 91.01 (3) (k)**, relating to training and proficiency in the use of automated external defibrillators for certification as a massage therapist or bodyworker.

Exemption From Finding of Emergency

Section 41 (2) (b) of the nonstatutory provisions of 2007 Wisconsin Act 104 provides that notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of regulation and licensing is not required to provide evidence that promulgating a rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated to implement 2007 Wisconsin Act 104. Notwithstanding s. 227.24 (1) (c) and (2) of the statutes, these emergency rules will remain in effect until the date on which the final rules take effect.

Publication Date: September 10, 2008
Effective: September 10, 2008 through the date on which the final rules take effect

Hearing Dates: November 26, 2008
 April 13, 2009

2. **EmR0828** — Rules adopted to **amend s. RL 181.01 (2) (c); and to create ss. RL 180.02 (1m), (3m) and (11), 181.01 (1) (d), (2) (c) 1. and 2.**, relating to training and proficiency in the use of automated external defibrillators for licensure as a licensed midwife.

Exemption From Finding of Emergency

Section 41 (2) (b) of the nonstatutory provisions of 2007 Wisconsin Act 104 provides that notwithstanding section

227.24 (1) (a) and (3) of the statutes, the department of regulation and licensing is not required to provide evidence that promulgating a rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated to implement 2007 Wisconsin Act 104. Notwithstanding s. 227.24 (1) (c) and (2) of the statutes, these emergency rules will remain in effect until the date on which the final rules take effect.

Publication Date: September 10, 2008
Effective: September 10, 2008
through the date on which
the final rules take effect
Hearing Date: November 26, 2008

Revenue

EmR0912 — Rule adopted revising **Chapter Tax 2**, relating to combined reporting for corporation franchise and income tax purposes.

Finding of Emergency

The Department of Revenue finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The function of the Wisconsin Department of Revenue is to administer the Wisconsin tax laws. These laws, and tax policy for raising revenue, are determined by the State Legislature. The State Legislature recently enacted numerous items of tax legislation, affecting individuals and businesses alike. Some of these apply retroactively to January 1, 2009. Emergency rules are needed, not only to address the risk of revenue loss, but to add more clarity and certainty about the scope and application of the newly enacted statutes.

Publication Date: August 8, 2009
Effective: August 8, 2009 through
January 4, 2010
Hearing Dates: September 25, 2009 and
October 16, 2009

Transportation

EmR0909 — Rule adopted amending section **Trans 315.03 (1) (a) and (c)**, relating to safety belt medical use exemption.

Finding of Emergency

The Department of Transportation finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of public health and safety. Current federal law at 23 USC 406 provides safety belt performance

grants to a state that has in effect and is enforcing a conforming primary safety belt use law for all passenger motor vehicles. A grant of federal funds estimated at roughly \$15,000,000 are available if this state is eligible on or before September 30, 2009; a secondary grant based on “share of unallocated funds,” estimated at not more than \$1,000,000, may be available if this state is eligible on or before June 30, 2009. The Wisconsin Legislature is currently deliberating a primary safety belt use law as part of the executive biennial budget bill, 2009 Assembly Bill 75, with the aim of qualifying for safety belt performance grants. Were the law timely enacted, this state could remain ineligible for safety belt performance grants because Department rules allow persons other than physicians to grant medical exemptions from safety belt use requirements. Immediate action is necessary to avoid forfeiting approximately \$16,000,000 in federal funds for highway safety activities. Increased use of safety belts has been shown to reduce the severity of injuries sustained in motor vehicle collisions, and limiting the medical use exemption to physicians would increase use of safety belts.

Publication Date: June 25, 2009
Effective: June 25, 2009 through
November 21, 2009
Hearing Date: September 8, 2009

Veterans Affairs

EmR0911 — Rule adopted to revise section VA 2.01, relating to the assistance to needy veterans grant program.

Finding of Emergency

The Wisconsin Department of Veterans Affairs finds that an emergency exists and that the rules are necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is: The economic recession in effect for the last fiscal year has adversely affected the veteran population. Many veterans have lost their employment or had their scope of employment reduced. In addition to losing employment, many veterans have seen their health care reduced or eliminated. In order to serve the largest population of veterans and ensure minimal health care for that population, the department is requesting emergency rules to define “vision care and to limit the eligibility, by available funding, for “dental care”, “hearing care”, and “vision care”. These eligibility limitations, which address the cost, type and frequency of care available under the program, will allow more veterans in need to access the limited resources of this program.

Publication Date: July 1, 2009
Effective: July 1, 2009 through
November 27, 2009
Hearing Date: August 14, 2009

Scope Statements

Hearings and Appeals

Subject

Revises Chapter HA 2, relating to practice and procedure in corrections administrative hearings relating to revocation of community supervision.

Objective of the Rule

1. Change the definition of the term “client” to “offender” to conform to current practice in corrections administrative hearings before the Division of Hearings and Appeals.
2. Allow for issuance and receipt of documents by electronic mail.
3. Allow for subpoenas to be issued by agents employed by the Department of Corrections.
4. Specify the evidence to be considered at the hearing.
5. Specify the rights of an offender at the hearing.
6. Specify the identity information of a witness that may be withheld from the offender under certain conditions.
7. Allow for hearings to be conducted by telephone or video conference.
8. Delete outdated statutory references.
9. Allow for appeals to be dismissed if the opposing party does not receive a timely copy of the appeal.
10. Delete outdated amount charged for transcripts.

Statutory Authority

Section 227.11 (2), Stats.

Comparison with Federal Regulations

There is no federal law on the specific issues addressed in the proposed rules.

Entities Affected by the Rule

The entities affected by the proposed rules are the Department of Corrections, persons on community supervision in the state of Wisconsin who are subject to revocation of their supervision, public defenders, and the public.

Estimate of Time Needed to Develop the Rule

400 hours.

Contact Information

Diane Norman, Assistant Administrator
 Email: diane.norman@wisconsin.gov
 Phone: (608) 266-7668

Insurance

Subject

Revises Section Ins 3.28, relating to uniform questions and format for individual health insurance application and affecting small business.

Objective of the Rule

To implement 2009 Wis. Act 28, that included the creation of s. 601.41 (10), Stats., that requires the commissioner to prescribe by rule uniform questions and format for a uniform application for individual health insurance policies.

Policy Analysis

There are no existing regulations for individual health insurance relevant to a uniform application. Currently the commissioner maintains the small employer uniform application of group health insurance. The proposed rule may incorporate applicable portions of the small employer uniform application when developing the uniform questions and format for the individual application.

Statutory Authority

Sections 601.41 (3) and (10), 601.42 (2), and 628.34 (12), Wis. Stats.

Comparison with Federal Regulations

There are no existing or proposed federal regulations regarding a uniform set of questions or format for an application for individual health insurance.

Entities Affected by the Rule

Intermediaries soliciting individual health insurance and insurers offering individual health insurance products may be affected by this rule.

Estimate of Time Needed to Develop the Rule

200 hours and no other resources are necessary.

Insurance

Subject

Revises Section Ins 6.77, relating to exempting commercial umbrella and commercial liability policies covering only hired and non-owned autos from having to offer or include uninsured and underinsured motorist coverage.

Policy Analysis

Act 28 (2009) modified the requirements for auto insurance in Wisconsin. These modifications did not specifically address the issue of insurers who write commercial liability insurance and commercial umbrella policies which insure only HNO under the policy but do not insure any automobiles owned by the insured.

If these new Act 28 requirements apply to commercial liability insurance and commercial umbrella policies which insure only HNO under the policy, this creates a significant problem. Some of these insurers do not have authority to write auto insurance which is needed to write UM and UIM. Other insurers offering the commercial umbrella and commercial liability HNO have not ever written UM/UIM coverages because the current rules and statutes exempt them. Insurers have also stated that obtaining reinsurance for this is a problem.

The alternative is to do nothing and wait to see if these policies are covered under Act 28. This will cause disruption in the commercial insurance market and may cause some businesses to lose their current coverage or have to seek a new insurer.

Statutory Authority

Sections 601.41 (3), 601.42, 628.34 (12) and 631.01 (5), Stats.

Comparison with Federal Regulations

None

Entities Affected by the Rule

Businesses that currently have commercial umbrella and commercial liability policies covering only HNO, insurance agents writing business coverages and insurers issuing such policies.

Estimate of Time Needed to Develop the Rule

200 hours and no other resources are necessary

Insurance

Subject

Revises subchapter III of Chapter Ins 18, relating to independent review procedures and affecting small business.

Objective of the Rule

To implement 2009 Wis. Act 28 that included amendments to existing independent review definitions and procedures and incorporated two new triggering events for independent review rights and reporting requirements. Newly created provisions include new definitions of coverage denial determinations and preexisting condition exclusion denial determinations and the creation of independent review eligibility for preexisting condition exclusion denial determinations and rescissions. The commissioner must render a determination that at least one independent review organization has completed the certification process and is able to effectively provide independent reviews for adverse and experimental treatment determinations, preexisting condition exclusion denial determinations and rescissions.

Policy Analysis

There are no existing regulations providing access to independent review related to pre-existing condition and rescission. The proposed rule will modify existing definitions and procedures to incorporate the newly created statutory rights. Currently independent review organizations do not review preexisting condition exclusion denial determinations or rescission determinations. Due to the nature of such reviews, independent review organizations may not currently have the appropriate staff necessary and available for the newly eligible review rights.

Statutory Authority

Sections 601.41 (3), 601.42 (2), 628.34 (12) and 632.835 (5) and (8), Stats.

Comparison with Federal Regulations

There are no existing or proposed federal regulations addressing access to independent review organizations for pre-existing conditions and rescissions.

Entities Affected by the Rule

Independent review organizations and insurers offering health benefit plans may be affected by this rule.

Estimate of Time Needed to Develop the Rule

200 hours and no other resources are necessary.

Public Service Commission

Subject

Creates Chapter PSC 172, relating to a police and fire protection fee.

Objective of the Rule

This rule implements s. 196.025 (6), Stats., (created by 2009 Wisconsin Act 28, section 2454k), that creates a police and fire protection fee imposed on all voice communications connections, including landline, wireless, and voice over internet protocol. It establishes the requirements for administering the fee.

Policy Analysis

No policies currently exist as this is a new fee. This rulemaking will create a new administrative code chapter, PSC 172. The rulemaking is being done with input from the Wisconsin Department of Revenue, which will collect the fee.

Statutory Authority

Sections 196.02 (1) and (3), 196.025 (6) (d) 1., 227.11 and 227.24, Stats.

Comparison with Federal Regulations

None.

Entities Affected by the Rule

All communications providers including landline, wireless, and voice over internet protocol providers. All retail establishments that sell prepaid wireless telephone plans.

Estimate of Time Needed to Develop the Rule

The Commission estimates that approximately 75 hours of Commission staff time will be required in this rulemaking.

Veterans Affairs

Subject

Amends section VA 1.11 (1) and repeals section VA 1.11 (8), relating to the licensing of such persons as may be necessary to carry out the functions of the department for the Wisconsin Veterans Homes.

Objective of the Rule

The objective of amending or repealing the rules is to ensure that any candidate for commandant or Administrator, Division of Homes, be a nursing home administrator holding a current nursing home administrator's license from the State of Wisconsin, or in the alternative, be able to obtain state licensure on the basis of holding a valid license from another state. The proposed amendment would exclude any current commandant or Administrator, Division of Homes from this requirement until January 1, 2011. Any individual who was a commandant for any Wisconsin Veterans Home or was the Administrator, Division of Homes from January 1, 2011 would be required to be currently licensed by the State of Wisconsin as a Nursing Home Administrator, or in the alternative, have a license as a nursing home administrator from another state which the State of Wisconsin would accept

for licensing under the laws of Wisconsin. The repeal of VA 1.11 (8) would remove from the direct supervision of the Secretary the commandants of the Wisconsin Veterans Homes, placing the supervision of all Homes under the direction of the Administrator, Division of Homes.

Description of Existing Policies

The current rule [s. VA 1.11 (1)] directs the secretary to employ a commandant and such persons as may be necessary to carry out the functions of the department. The rule does not reflect the requirement that a commandant for any Wisconsin Veterans Home or the administrator for the Division of Homes needs to be licensed as nursing home administrator. As the Homes require a licensed nursing home administrator to comply with state and federal regulations, the placement of these individuals within the management structure of the department and the Homes should reflect the commitment to ensure appropriate care is given to the members of both Homes. The current rule (s. VA 1.11 (8) directing the Secretary to directly oversee the operation of the Homes bypasses the organizational structure of the department by placing the commandant directly under the oversight of the Secretary. The repeal of this code provision allows the department to oversee the Wisconsin Veterans Homes in accordance with the policies of the State of Wisconsin, Board of Veterans Affairs..

Policy Analysis

Under current administrative rules, the secretary is charged with employing a commandant for the Wisconsin Veterans Home and such persons as may be necessary to carry out the functions of the department. The department has identified that the Wisconsin Veterans Homes require licensed nursing home administrators. It has further identified that under state and federal laws, the holders of the licenses are ultimately responsible for the services provided in each home. The organizational heads of these nursing facilities must be able to direct the staff in a manner consistent with their licensing knowledge and experience. Likewise, the department has also determined that the organizational structure provided under the administrative code does not allow the Administrator, Division of Homes to provide effective oversight to the commandants. The Administrator should be able to provide direction and oversight in the specific field of nursing home administration and be able to provide alternate management for any Home should the commandant of any Home be unavailable for management.

Statutory Authority

Sections 45.03 (2), (4) (a), and 45.50 (1) (a), Stats.

Comparison with Federal Regulations

There is no existing or proposed federal regulation that has any direct bearing upon the proposed rule.

Entities Affected by the Rule

The amended rules will affect individuals applying for the positions of commandant for any Home and Administrator, Division of Homes. It will also affect the incumbents in those positions if they continue to hold their positions until January 1, 2011.

Estimate of Time Needed to Develop the Rule

Approximately 25 hours of Department of Veterans Affairs staff time will be needed to promulgate the rule.

Veterans Affairs

Subject

Creates section VA 2.01 (1) (u), (3) (d), (e), and (f), relating to the definition of "Vision care", and establishing specific criteria for eligible dental care, hearing care, and vision care relating to the purpose of administering the Assistance to Needy Veterans Grant Program.

Objective of the Rule

The department wants to create a rule to define the nature of "Vision care" available under the Assistance to Needy Veterans Grant program and to create rules which identify the eligibility criteria associated with the services defined as "Dental care", "Hearing care" and "Vision Care". These amendments are intended to provide clarification of the scope of these benefits and to administer the program in accordance with the policies of the State of Wisconsin, Board of Veterans Affairs. The term "Vision care" has not been previously defined and the department wants to provide clarification for all parties who may seek benefits, to assist veterans in seeking benefits and the department regarding the scope of benefits available in this program and to administer the program in accordance with the policies of the State of Wisconsin, Board of Veterans Affairs.

Policy Analysis

Under current program rules, a veteran may apply for "Dental care" which encompasses any care given to teeth, including cosmetic care. The department is seeking to limit the provision of "Dental care" to care which is defined as necessary for the health of the veteran and falls within specific monetary limits imposed over specific periods of time. The current definition of "Hearing care" also allows for any care related to hearing, but does not impose a restriction on the medical necessity of the aid sought. The department is seeking to limit "Hearing care" to the provision of care which is defined as necessary for the health of the veteran within specific monetary limits imposed over specific periods of time. Under current program rules, veterans may apply for grants covering any treatment of a vision issue, as no definition of that term exists. As a result, some veterans have applied for grants which involve cosmetic vision issues and repetitive purchases of the same vision care (eyewear). The department is seeking to define and limit "Vision care" to the provision of care which is defined as necessary for the health of the veteran within specific monetary limits imposed over specific periods of time.

The goal of the program is to provide basic care regarding Dental care, Hearing care, and Vision care to those needy veterans who can not qualify for care under the United States Department of Veterans Affairs health care program. The department believes that defining the term "Vision care", as well as providing specific eligibility criteria for "Dental care", "Hearing care" and "Vision Care" to limit care appropriately will provide clarification of the scope of treatment available and allow the program to function in accordance with the policies established by the State of Wisconsin, Board of Veterans Affairs.

Statutory Authority

Section 45.40 (3m), Stats.

Comparison with Federal Regulations

The Assistance to Needy Veterans Grant program is administered entirely under the authority of state law. The U.S. Department of Veterans Affairs provides health care for

eligible veterans in accordance with Title 38 of the U.S. Code and Title 38 of the Code of Federal Regulations. All veterans applying for benefits under this program are required to apply for the same benefits from the U.S. Department of Veterans Affairs and to use that agency's services if found eligible. Any veteran who does not apply for benefits from that agency or does not accept benefits from that agency if eligibility is established is ineligible for the program. There is no other existing or proposed federal regulation that has any direct

bearing upon the proposed rule.

Entities Affected by the Rule

The amended rules will affect veterans applying for the benefit, the department, providers of dental care, hearing care, and vision care, and county veterans service officers.

Estimate of Time Needed to Develop the Rule

Approximately 15 hours of Department of Veterans Affairs staff time will be needed to promulgate the rule.

Submittal of Rules to Legislative Council Clearinghouse

*Please check the Bulletin of Proceedings – Administrative Rules
for further information on a particular rule.*

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors CR 09-079

On September 11, 2009, the Department of Regulation and Licensing submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises section A-E 3.05 (2), relating to entrance requirements to take the architect examination.

Agency Procedure for Promulgation

A public hearing is required and will be held on October 13, 2009.

Contact Information

Pamela Haack, Paralegal
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Email: Pamela.haack@wisconsin.gov

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors CR 09-080

On September 11, 2009, the Department of Regulation and Licensing submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order creates Chapter A-E 12, relating to continuing education for architects.

Agency Procedure for Promulgation

A public hearing is required and will be held on October 13, 2009.

Contact Information

Pamela Haack, Paralegal
Phone: (608) 266-0495
Email: Pamela.haack@wisconsin.gov

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors CR 09-081

On September 11, 2009, the Department of Regulation and Licensing submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order creates Chapter A-E 11, relating to continuing education for landscape architects.

Agency Procedure for Promulgation

A public hearing is required and will be held on October 13, 2009.

Contact Information

Pamela Haack, Paralegal
Phone: (608) 266-0495
Email: Pamela.haack@wisconsin.gov

Commerce Uniform Dwelling, Chs. Comm 20-25 CR 09-072

On September 3, 2009, the Department of Commerce submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises section Comm 22.31 (2) (b), relating to approved software to show compliance with Uniform Dwelling Code thermal envelope requirements.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for October 21, 2009. The Department of Commerce is responsible for promulgation of the rules.

Contact Information

Larry Swaziek, Program Manager
Phone: (608) 267-7701
Email: larry.swaziek@wisconsin.gov

Corrections CR 09-075

On September 3, 2009, the Department of Corrections submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises sections DOC 309.466, 309.48 (title) and 309.49, relating to inmate release accounts.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for October 14, 2009. The Department of Corrections, Division of Adult Institutions is responsible for promulgation of the rules.

Contact Information

Kathryn R. Anderson, Chief Legal Counsel
Department of Corrections
3099 East Washington Avenue — PO Box 7925
Madison, WI 53707-7925
Phone: (608) 240-5049
FAX: (608) 240-3306
email: kathryn.anderson@wisconsin.gov

**Insurance
CR 09-076**

On September 10, 2009, the Office of the Commissioner of Insurance submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises section Ins 3.39 (5m), (14m), (34) and Appendix 3, relating to Medicare supplement and replacement guarantee issue and affecting small business.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for October 15, 2009.

Contact Information

A copy of the proposed rule may be obtained from the Web site at: <http://oci.wi.gov/ocirules.htm> or by contacting:

Inger Williams

OCI, Public Information and Communications

Phone: (608) 264-8110

For additional information, please contact:

Julie E. Walsh, OCI Legal Unit

(608) 264-8101

e-mail: julie.walsh@wisconsin.gov

**Natural Resources
Fish, Game, etc., Chs. NR 1—
CR 09-077**

On August 27, 2009, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order creates Chapter NR 52, relating to the public use of lands acquired under the Knowles-Nelson Stewardship Program.

Agency Procedure for Promulgation

Public hearings are required and will be held at the times and places shown in the Notice of Hearings published in this Register.

Contact Information

Douglas Haag

Bureau of Facilities and Lands

Phone: (608) 266-2136

Email: DouglasJ.Haag@wisconsin.gov

**Natural Resources
Fish, Game, etc., Chs. NR 1—
CR 09-078**

On September 15, 2009, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapter NR 10, relating to the establishment of seasons for hunting deer.

Agency Procedure for Promulgation

Public hearings are required and will be held at the times and places shown in the Notice of Hearings published in this Register.

Contact Information

Scott Loomans

Bureau of Wildlife Management

Phone: (608) 267-2452

**Natural Resources
Environmental Protection — Water Supply,
Chs. NR 800—
CR 09-073**

On September 3, 2009, the Department of Natural Resources submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order revises Chapters NR 809 and 811, relating to safe drinking water and design requirements for community water systems; and creates Chapter NR 810, relating to requirements for the operation and maintenance of public water systems.

Agency Procedure for Promulgation

Public hearings are required and will be held at the times and places shown in the Notice of Hearings published in this Register.

Contact Information

Lee Boushon

Bureau of Drinking Water and Groundwater

Phone: (608) 266-0857

**Public Instruction
CR 09-071**

On September 3, 2009, the Department of Public Instruction submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order creates Chapter PI 15, relating to revenue limit exemptions for energy efficiencies.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for November 9, 2009. The Division for Finance and Management is primarily responsible for promulgation of this rule.

Contact Information

David Carlson, Director

School Financial Services

Phone: (608) 266-6968

Email: david.carlson@dpi.wi.gov

Public Instruction
CR 09-074

On September 4, 2009, the Department of Public Instruction submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed order amends Chapter PI 35, relating to establishing a nonrefundable fee under the Milwaukee Parental Choice Program.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for October 26, 2009. The Division for Finance and Management is primarily responsible for promulgation of this rule.

Contact Information

Robert Soldner, Director
School Management Services
Phone: (608) 266-7475
Email: robert.soldner@dpi.wi.gov

Rule-Making Notices

Notice of Hearing

Agriculture, Trade and Consumer Protection EmR0922

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold a public hearing on its emergency rule revising s. ATCP 21.17, Wis. Adm. Code, relating to the quarantines of Milwaukee County, Racine County and Waukesha County for emerald ash borer.

Hearing Information

DATCP will hold a public hearing at the time and place shown below.

October 15, 2009

1:00 pm to 3:00 pm

Franklin Public Library, Fadrow Room A

9151 W. Loomis Road

Franklin, WI 53132

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by October 13, 2009, by writing to Jennifer Etter Goh, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708-8911, telephone (608) 224-4577. Alternatively, you may contact the DATCP TDD at (608) 224-5058. The hearing facility is handicap accessible.

Appearances at Hearing and Submission of Written Comments

DATCP invites the public to attend the hearing and comment on the emergency rule. Following the public hearing, the hearing record will remain open until Friday, October 23, 2009 for additional written comments. Comments may be sent to the Division of Agricultural Resource Management at the address below, to Robert.dahl@datcp.state.wi.us or at <http://adminrules.wisconsin.gov>.

Copies of Emergency Rule

You may obtain a free copy of this emergency rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224-4573 or emailing robert.dahl@datcp.state.wi.us. Copies will also be available at the hearing. To view the emergency rule online, go to: <http://adminrules.wisconsin.gov>.

Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

This emergency rule creates quarantines for Milwaukee County, Racine County and Waukesha County for the emerald ash borer. Under this rule, the Department of Agriculture, Trade and Consumer Protection ("DATCP") quarantines Milwaukee County, Racine County and Waukesha County to mitigate the movement of emerald ash borer to other areas of Wisconsin and other states.

DATCP is adopting this temporary emergency rule pending the adoption of federal quarantines for Milwaukee County, Racine County and Waukesha County. This emergency rule will take effect immediately upon publication in the official state newspaper, and will remain in effect for 150 days. The Legislature's Joint Committee for Review of Administrative Rules may extend the emergency rule for up to 120 additional days.

Statutes interpreted

Sections 93.07 (12) and 94.01, Stats.

Statutory authority

Sections 93.07 (1), 93.07 (12), 94.01 and 227.24, Stats.

Explanation of statutory authority

The Wisconsin Department of Agriculture, Trade and Consumer Protection ("DATCP") has broad general authority, under s. 93.07 (1), Stats., to adopt regulations to enforce laws under its jurisdiction. DATCP also has broad general authority, under ss. 93.07 (12) and 94.01, Stats., to adopt regulations to prevent and control plant pest infestations. Emerald ash borer quarantines created by this rule are part of an overall state strategy to prevent and control plant pest infestations, including emerald ash borer infestations. DATCP is adopting this temporary emergency rule, under authority of s. 227.24, Stats., pending the adoption of federal regulations on the same subject.

Background

The United States Department of Agriculture-Animal and Plant Health Inspection Services (APHIS) positively identified emerald ash borer in Milwaukee County, near the border of Racine County and Waukesha County, on August 28, 2009. This emergency rule creates DATCP quarantines for Milwaukee County, Racine County, and Waukesha County. A federal quarantine will be enacted approximately two to six weeks after a formal submission by the state plant regulatory official. Emerald ash borer is carried by untreated ash wood products. A two to six week delay until enactment of the federal quarantine leaves too much time for businesses or individuals to move potentially emerald ash borer infested material out of the county to areas of Wisconsin or other states that are not infested with emerald ash borer.

Emerald ash borer is an injurious exotic pest that now endangers Wisconsin's 750 million ash trees and ash tree resources. This insect has the potential to destroy entire stands of ash, and any incursion of emerald ash borer can result in substantial losses to forest ecosystems and urban trees, as well as the state's thriving tourism and timber industries. Efforts are currently underway in other states to eradicate emerald ash borer. Those efforts have proven to be costly, time-consuming, and not completely effective. In Michigan, emerald ash borer has caused an estimated \$11.6 million in landscape industry and wood lot losses and approximately \$2 million in lost nursery stock sales annually. The United States Department of Agriculture predicts the national urban impact from this pest could exceed \$370 billion.

DATCP has plant inspection and pest control authority under s. 94.01, Stats., to adopt rules establishing quarantines or other restrictions on the importation into or movement of plants or other materials within this state, if these measures are

necessary to prevent or control the spread of injurious plant pests. A quarantine order may prohibit the movement of any pest, or any plant, pest host or pest-harboring material, which may transmit or harbor a pest.

Emergency rule content

Under this emergency rule, movement of all hardwood (non-coniferous) firewood of any type plus movement of any ash wood out of Milwaukee County, Racine County and Waukesha County is prohibited with certain exceptions. The emergency rule will do the following:

- Create quarantines of emerald ash borer for Milwaukee County, Racine County, and Waukesha County that prohibit the movement of all hardwood species of firewood, nursery stock, green lumber, and other material living, dead, cut or fallen, including logs, stumps, roots, branches and composted and uncomposted chips of the genus *Fraxinus* (Ash wood), out of the county.
- Provide an exemption for items that have been inspected and certified by a pest control official and are accompanied by a written certificate issued by the pest control official (some products, such as nursery stock, cannot be given an exemption).
- Provide an exemption for businesses that enter into a state or federal compliance agreement. The compliance agreement spells out what a company can and cannot do with regulated articles.

Comparison with federal regulations

Under the federal Plant Protection Act, APHIS has responsibility for excluding, eradicating and controlling serious plant pests, including emerald ash borer. APHIS has instituted statewide quarantines on the movement of all ash wood for Illinois, Indiana and Ohio, in addition to the Lower Peninsula of Michigan. APHIS has also instituted quarantines for Brown, Kenosha, Ozaukee, Washington, Sheboygan, Fond du Lac, Vernon and Crawford Counties in Wisconsin. The quarantines include restrictions on the movement of any hardwood (non-coniferous) firewood.

Comparison with rules in adjacent states

Surrounding states where emerald ash borer has been identified (Illinois, Indiana, Ohio, Minnesota and Michigan) have state and federal quarantines that prohibit the movement of regulated articles out of quarantined areas. A regulated article can only move out of quarantined areas after it is certified by USDA or state officials.

Environmental Impact

This emergency rule will not have a significant impact on the environment.

Small Business Impact

This emergency rule may have an impact on persons or companies that deal in any hardwood firewood or ash materials in Milwaukee County, Racine County and Waukesha County. The affected businesses are all small businesses. This emergency rule restricts the sale or distribution of ash products plus any hardwood firewood from Milwaukee County, Racine County and Waukesha County to locations outside of Milwaukee County, Racine County and Waukesha County.

The business impact of this emergency rule depends on the number of nurseries that sell/distribute ash nursery stock outside the county, firewood producers/dealers that sell/distribute outside the county, saw mills that move

untreated ash stock outside the county, and green wood waste that is moved outside the county.

Milwaukee County, Racine County and Waukesha County have a combined total of 84 licensed nursery growers that could possibly be growing ash nursery stock. Those growers will not be able to sell ash nursery stock outside of the county during the quarantine. There are also a total of 50 known firewood dealers in Milwaukee County, Racine County and Waukesha County. Additional firewood dealers are being identified weekly. Firewood dealers would need to be certified under s. ATCP 21.20 to sell firewood outside of the county. To obtain certification a firewood dealer will have to pay an annual certification fee to DATCP of \$50 and treat the firewood in a manner that insures it is free of emerald ash borer. There are 3 mills (non-veneer) in Milwaukee County, Racine County and Waukesha County and an unknown number of wood processing facilities that deal with ash. To sell ash wood products outside of their counties they will have to enter into a compliance agreement with DATCP or APHIS that authorizes movement of ash products outside of their county only when there is assurance that the movement will not spread emerald ash borer to other locations.

Small business regulatory coordinator

To provide comments or concerns relating to small business, please contact DATCP's small business regulatory coordinator, Keeley Moll, at the address above, by emailing to Keeley.Moll@datcp.state.wi.us or by telephone at (608) 224-5039.

Fiscal Estimate

Summary

DATCP will have additional workload related to enforcing the quarantines but it will be able to absorb the projected workload and costs within DATCP's current budget and with current staff. The presence of emerald ash borer may produce additional workload for local governments in Milwaukee County, Racine County and Waukesha County, but the quarantines will not themselves produce any local fiscal impact.

State fiscal effect

None.

Local government fiscal effect

None.

Long-range fiscal implications

If multiple infestations are found in this state, DATCP may experience substantial costs and personnel demands for providing regulatory oversight and working with affected industries. Costs may vary, depending on the nature and scope of the infestations, and cannot be accurately predicted at this time.

Agency Contact Person

Robert Dahl

Phone: 608-224-4573

Mail: P.O. box 8911, Madison, WI 53708-8911

Email: robert.dahl@wisconsin.gov

Notice of Hearing

**Architects, Landscape Architects, Professional
Engineers, Designers and Land Surveyors
Examining Board**

CR 09-079

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Architects, Landscape

Architects, Professional Engineers, Designers and Land Surveyors in ss. 15.08 (5) (b) and 227.11 (2), Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Rules Committee will hold a public hearing at the time and place indicated below to consider an order to amend section A–E 3.05 (2), relating to entrance requirements to take the architect examination.

Hearing Information

Date: October 13, 2009
Time: 1:15 P.M.
Location: 1400 East Washington Avenue
(Enter at 55 North Dickinson Street)
Room 121A
Madison, Wisconsin

Appearances at the Hearing and Submission of Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to: Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708–8935, or by email to pamela.haack@wisconsin.gov. Comments must be received on or before October 23, 2009, to be included in the record of rule-making proceedings.

Copies of Proposed Rule

Copies of the proposed rule are available upon request to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at pamela.haack@wisconsin.gov.

Analysis Prepared by the Department of Regulation and Licensing.

Statutes interpreted

Section 443.03 (1) (b) 1. and 2., Stats.

Statutory authority

Sections 15.08 (5) (b) and 227.11 (2), Stats.

Explanation of agency authority

The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors may approve and adopt rules proposed by any section of the board.

Related statute or rule

There are no other statutes or rules other than those listed above.

Plain language analysis

This proposed rule-making amends the current requirement that a candidate for registration as an architect may only take the qualifying architect examination for registration within one year of the time which they are scheduled to complete the required education and experience requirements. The architect section proposes that a candidate be eligible to sit for the Architect Registration Examination (ARE) upon graduation from a National Architectural Accrediting Board (NAAB) accredited degree program. Under the current requirements a candidate could have to wait additional time because it will take them more than one year

to complete the examination, which is completed in multiple stages.

The intent of the proposed rule is to encourage candidates to obtain registration by making it possible for them to sit for the examination immediately upon completion of their education and experience requirements, provided that they have a NAAB accredited degree program and an NCARB established IDP training record. It is shown that the increase in the delay of eligibility to sit for the examination has an adverse impact upon the number of candidates who obtain registration.

Comparison with federal regulations

This is not an area which is regulated by federal law or subject to any proposed federal legislation. The standards for state licensure are regulated by each state.

Comparison with rules in adjacent states

Illinois

Applicants can take the examination upon completion of one of several degree program paths and completing experience/training requirements. www.idfpr.com

Iowa

Applicants can take the examination upon completion of an NAAB accredited degree program and completion of experience/training requirements. www.state.ia.us/government/com/prof/architect/home.html

Michigan

Applicants can take the examination upon completion of an NAAB accredited degree or board equivalent degree program. www.michigan.gov/dleg

Minnesota

Applicants can take the examination upon completion of an NAAB accredited degree or board equivalent degree program. www.aelslagid.state.mn.us

Summary of factual data and analytical methodologies

Currently, to be eligible to take a scheduled examination, a candidate shall submit documentation certifying that he or she has all but one year of academic credit and qualifying architectural experience, as specified in s. 443.03 (1) (b) 1., Stats., or all but one year of qualifying architectural experience, as specified in s. 443.03 (1) (b) 2., Stats. As a result, the candidate can only take the examination within one year of the time which they are scheduled to complete the required education and experience requirements and they may have to wait additional time because it will take them more than one year to complete the examination, which is completed in multiple stages. The architect section proposes that a candidate be eligible to sit for the Architect Registration Examination (ARE) upon graduation from a National Architectural Accrediting Board (NAAB) accredited degree program. This change will make it easier for the candidate to obtain their registration immediately upon completion of their education and experience requirements for those candidates completing a NAAB accredited degree program and having an NCARB established IDP training record.

Analysis and supporting documents used to determine effect on small business

As this rule change only impacts the timing in which a candidate may begin the examination process, it will not affect or impact adversely small businesses or the private sector. No written analysis or formal research was involved in reaching this conclusion.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed

rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

Small Business Impact

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats.

The Department’s Regulatory Review Coordinator may be contacted by email at hector.colon@wisconsin.gov, or by calling 608-266-8608.

Fiscal Estimate

State government fiscal effect

The department estimates that this rule will require staff time in the Division of Professional Credentialing. The total one-time salary and fringe costs are estimated at \$250.

Anticipated costs incurred by the private sector

The department finds that this rule has no significant fiscal effect on the private sector.

Agency Contact Person

Pamela Haack, Paralegal
Department of Regulation and Licensing
1400 East Washington Avenue — Room 152
P.O. Box 8935
Madison, Wisconsin 53708
Phone: 608-266-0495
Email: pamela.haack@wisconsin.gov.

Text of Proposed Rule

SECTION 1. A–E 3.05 (2) is amended to read:

A–E 3.05 (2) REQUIREMENTS FOR ENTRANCE TO THE EXAMINATION. To be eligible to take a scheduled examination, the applicant shall submit documentation certifying he or she has all but one year of academic credit and qualifying architectural experience, as specified in s. 443.03 (1) (b) 1., Stats., or all but one year of qualifying architectural experience, as specified in s. 443.03 (1) (b) 2., Stats., or graduated from a national architectural accrediting board accredited degree program and obtained a national council of architectural registration boards established intern development program training record.

Notice of Hearing

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board

CR 09-080

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in ss. 15.08 (5) (b), 227.11 (2) and 443.015, Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Rules Committee will hold a public hearing at the time and place indicated below to consider an order to create Chapter A–E 12, relating to continuing education for architects.

Hearing Information

Date: October 13, 2009
Time: 1:15 P.M.
Location: 1400 East Washington Avenue
(Enter at 55 North Dickinson Street)
Room 121A
Madison, Wisconsin

Appearances at the Hearing and Submission of Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to: Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to pamela.haack@wisconsin.gov. Comments must be received on or before October 23, 2009, to be included in the record of rule-making proceedings.

Copies of Proposed Rule

Copies of the proposed rule are available upon request to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at pamela.haack@wisconsin.gov.

Analysis Prepared by the Department of Regulation and Licensing

Statutes interpreted

Section 443.015, Stats.

Statutory authority

Sections 15.08 (5) (b), 227.11 (1) and 443.015, Stats.

Explanation of agency authority

The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors may approve and adopt rules proposed by any section of the board.

Related statute or rule

There are no other statutes or rules other than those listed above.

Plain language analysis

This proposed rule-making order creates continuing education requirements for renewal of a credential for architects within the jurisdiction of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors as permitted by s. 443.015, Stats., as created by 2007 Wisconsin Act 47.

Comparison with federal regulations

There is no existing or proposed federal regulation.

Comparison with rules in adjacent states

Illinois

Continuing education requirements for architects are 24 hours for each biennial renewal. www.idfpr.com

Iowa

Architect continuing education requirements are 24 hours for each biennial renewal.

www.state.ia.us/government/com/prof/architect/home.html

Michigan

There are no continuing education requirements for architects. www.michigan.gov/dleg

Minnesota

Architects require 24 hours of continuing education for each biennial renewal. www.aelslagid.state.mn.us

Summary of factual data and analytical methodologies

The Architect Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors examined models of continuing education from neighboring states, national organizations related to their profession, including input from the National Council of Architecture Regulatory Boards, the American Institute of Architects and AIA Wisconsin, a Society of the American Institute of Architects.

The comparison information with the rules in adjacent states was obtained directly from contact with those states and a review of their rules. The comparison to the adjacent states demonstrates that the proposed rules are substantially consistent with the rules in those states.

Analysis and supporting documents used to determine effect on small business

Data was obtained from the Department of Regulation and Licensing's Credentialing Division Renewal Unit and research was conducted regarding the availability of continuing education credits offered via online courses, trade association sponsored seminars and other means, as well as the costs associated therewith. That data was compared with the requirements outlined in the proposed rules and based thereon, appears that these rules will have no significant impact on a substantial number of small businesses.

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

Small Business Impact

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats.

The Department's Regulatory Review Coordinator may be contacted by email at hector.colon@wisconsin.gov, or by calling 608-266-8608.

Fiscal Estimate

State government fiscal effect

The department estimates that this rule will require staff time in the Office of Exams. The total one-time salary and fringe costs are estimated at \$7,680. The total on-going salary and fringe costs are estimated at \$12,800.

Anticipated costs incurred by the private sector

The department finds that this rule has no significant fiscal effect on the private sector.

Agency Contact Person

Pamela Haack, Paralegal
Department of Regulation and Licensing
1400 East Washington Avenue — Room 152
P.O. Box 8935
Madison, Wisconsin 53708
Phone: 608-266-0495
Email: pamela.haack@wisconsin.gov

Notice of Hearing Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board CR 09-081

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in ss. 15.08 (5) (b), 227.11 (2) and 443.015, Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors will hold a public hearing at the time and place indicated below to consider an order to create Chapter A-E 11, relating to continuing education for landscape architects.

Hearing Information

Date: October 13, 2009
Time: 1:15 P.M.
Location: 1400 East Washington Avenue
(Enter at 55 North Dickinson Street)
Room 121A
Madison, Wisconsin

Appearances at the Hearing and Submission of Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to: Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to pamela.haack@wisconsin.gov. Comments must be received on or before October 23, 2009, to be included in the record of rule-making proceedings.

Copies of Proposed Rule

Copies of the proposed rule are available upon request to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at pamela.haack@wisconsin.gov.

Analysis Prepared by the Department of Regulation and Licensing

Statutes interpreted

Section 443.015, Stats.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) and 443.015, Stats.

Explanation of agency authority

The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors may approve and adopt rules proposed by any section of the board.

Related statute or rule

There are no other statutes or rules other than those listed above.

Plain language analysis

This proposed rule-making order creates continuing education requirements for renewal of a credential for landscape architects within the jurisdiction of the Examining Board of Architects, Landscape Architects, Professional

Engineers, Designers and Land Surveyors as permitted by s. 443.015, Stats., created by 2007 Wisconsin Act 47.

Comparison with federal regulations

This is not an area which is regulated by federal law or subject to any proposed federal legislation. The standards for state licensure are regulated by each state.

Comparison with rules in adjacent states

Illinois

There are no continuing education requirements for landscape architects. www.idfpr.com

Iowa

Landscape architect continuing education requirements are 24 hours for each biennial renewal. www.state.ia.us/government/com/prof

Michigan

There are no continuing education requirements for landscape architects. www.michigan.gov/dleg

Minnesota

Landscape architects require 24 hours of continuing education for each biennial renewal. www.aelslagid.state.mn.us

Summary of factual data and analytical methodologies

The Landscape Architect Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors examined models of continuing education from neighboring states and national organizations related to their profession, including the National Association of Landscape Architects.

The comparison information with the rules in adjacent states was obtained directly from contact with those states and a review of their rules. The comparison to the adjacent states demonstrates that the proposed rules are substantially consistent with the rules in those states.

Analysis and supporting documents used to determine effect on small business

Data was obtained from the Department of Regulation and Licensing's Credentialing Division Renewal Unit and research was conducted regarding the availability of continuing education credits offered via online courses, trade association sponsored seminars and other means, as well as the costs associated therewith. That data was compared with the requirements outlined in the proposed rules and based thereon, appears that these rules will have no significant impact on a substantial number of small businesses.

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule—making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

Small Business Impact

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats.

The Department's Regulatory Review Coordinator may be contacted by email at hector.colon@wisconsin.gov, or by calling 608-266-8608.

Fiscal Estimate

State government fiscal effect

The department estimates that this rule will require staff time in the Office of Exams. The total one-time salary and fringe costs are estimated at \$6,400. The total on-going salary and fringe costs are estimated at \$9,600.

Anticipated costs incurred by the private sector

The department finds that this rule has no significant fiscal effect on the private sector.

Agency Contact Person

Pamela Haack, Paralegal
Department of Regulation and Licensing
1400 East Washington Avenue — Room 152
P.O. Box 8935
Madison, Wisconsin 53708
Phone: 608-266-0495
Email: pamela.haack@wisconsin.gov.

Notice of Hearing

Commerce

Uniform Dwelling, Chs. Comm 20–25 EmR0917 and CR 09–072

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.63 (1), 101.73 (1), 101.82 (1), Stats., the Department of Commerce will hold a public hearing on the proposed rule and emergency rule under Chapter Comm 22 relating to the approved version of REScheck software used to show compliance with Uniform Dwelling Code thermal envelope requirements.

Hearing Information

The public hearing will be held as follows:

<u>Date and Time:</u>	<u>Location:</u>
October 21, 2009	Thompson Commerce Bldg.
Wednesday	Conference Room 3C
1t 10:00 a.m.	201 W. Washington Ave.
	Madison, Wisconsin

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or (608) 264-8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon a request from a person with a disability.

Appearances at Hearing and Submission of Written Comments

Interested persons are invited to appear at the hearing and present comments on the proposed rule. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until November 4, 2009, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to Larry Swaziek, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or Email at larry.swaziek@wisconsin.gov.

Copies of Proposed Rule

The proposed rule and an analysis of the proposed rule is available on the Internet at the Safety and Buildings Division Web site at www.commerce.wi.gov/SB/. Paper copies may be obtained without cost from Roberta Ward, at the Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689, or Email at roberta.ward@wisconsin.gov, or at telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearing.

Analysis Prepared by Department of Commerce

Statutes interpreted

Sections 101.02 (1), 101.63 (1), 101.64 (3), 101.72 and 101.74, Stats.

Statutory authority

Sections 101.02 (1), 101.63 (1), 101.64 (3), 101.72 and 101.74, Stats.

Related statute or rule

Chapters Comm 20 to 25, Wisconsin Uniform Dwelling Code.

Explanation of Agency Authority

Under the statute sections listed above, the Department of Commerce has the authority to promulgate rules that establish uniform, statewide standards for the construction of one- and 2-family dwellings. Sections 101.63 (5) and 101.73 (8), Stats., require the department to review these rules on a biennial basis. Currently, the department has fulfilled this responsibility by promulgating the Wisconsin Uniform Dwelling Code, chapters Comm 20 to 25, effective April 1, 2009.

Summary of proposed rule

The proposed rule amends a provision that requires a specific version of REScheck software be used to calculate compliance with the dwelling thermal envelope requirements in chapter Comm 22. The amendment is necessary because Version 4.1.0, and some subsequent versions, that are specified in s. Comm 22.31 (2) (b) do not meet nor support the requirements of Wisconsin's energy code. State-specific energy conservation provisions were not incorporated into REScheck software until Version 4.2.2.

Comparison with federal regulations

An Internet-based search of the code of federal regulations and the federal register did not identify any federal requirements relating to REScheck software editions and their compatibility to state-specific codes. There are no existing or proposed federal regulations that address the specific issue or impact the activities to be regulated by this rule.

Comparison with rules in adjacent states

A search of the U.S. Department of Energy's Building Energy Codes Program's web site found that Illinois, Iowa and Michigan use REScheck to show compliance with their energy codes. Minnesota, which has a state-specific code, is not REScheck compatible. Illinois does not have a state residential code while Iowa has adopted the 2006 IECC and Michigan the 2003 International Residential Code (IRC).

An Internet-based search of the residential regulatory programs in the states of Illinois, Iowa, Michigan and Minnesota revealed that none of these states had rules

regarding specific versions of REScheck as addressed by the Wisconsin rule being amended in this rule proposal.

Summary of factual data and analytical methodologies

The proposed rule was developed using information gathered when the department learned that Wisconsin-specific energy calculations were incorporated into REScheck Version 4.2.2. Previous versions, including Version 4.1.0 which is specified in Comm 22.31 (2) (b), do not include these state-specific calculations and formulas, and therefore, do not support chapter Comm 22 that became effective April 1, 2009.

Small Business Impact

The department believes the proposed rule will not increase the effect on small businesses from what the current rules impose on them. An economic impact report has not been required pursuant to s. 227.137, Stats.

The small business regulatory coordinator for the Department of Commerce is Carol Dunn, who may be contacted at telephone (608) 267-0297, or Email at carol.dunn@wisconsin.gov.

Fiscal Estimate

Summary

The emergency rule repeals code language requiring a specific version of REScheck software be used to show compliance with Uniform Dwelling Code thermal envelope requirements. Amending s. Comm 22.31 (2) (b) will not affect department revenue or expenditures.

State fiscal effect

None

Local government fiscal effect

None

Fund sources affected

PRO.

Long-range fiscal implications

None are anticipated.

Agency Contact Person

Larry Swaziek, Program Manager
Email: Larry.swaziek@wisconsin.gov
Phone: (608) 267-7701.

Text of Proposed Rule

SECTION 1. Comm 22.31 (2) (b) is amended to read:

Comm 22.31 (2) (b) *Software edition version*. If the a REScheck software program is used to show compliance with this section, the a version approved by the department shall be 4.1.0, or later used.

Note: ~~Any The downloadable version of REScheck with a beginning number of 3 or smaller will not support 4.2.2. Wisconsin 2009 Code, meets~~ the requirements of this code.

Notice of Hearing

Corrections

EmR0920 and CR 09-075

NOTICE IS HEREBY GIVEN that pursuant to section 227.11 (2), Stats., the Department of Corrections will hold public hearings to consider an emergency rule and a proposed permanent rule revising ss. DOC 309.466 and 309.49, relating to inmate release accounts.

Hearing information

Date & Time	Location
October 14, 2009 10:00 a.m.	Conference Room 116 State Office Building 819 North 6 th Street Milwaukee, Wisconsin
October 14, 2009 2:30 p.m.	St. Croix Conf. Room—First Floor Department of Administration 101 East Wilson Street Madison, Wisconsin

The public hearing sites are accessible to people with disabilities. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please contact Kathryn Anderson, DOC, P.O. Box 7925, Madison, WI 53707-7925, email kathryn.anderson@wisconsin.gov, telephone (608) 240-5049 by October 7, 2009.

Appearances at the Hearing and Submission of Written Comments

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received by Friday, October 23, 2009. Written comments should be addressed to: Kathryn R. Anderson, DOC, P.O. Box 7925, Madison, WI 53707-7925, or by email: kathryn.anderson@wisconsin.gov.

Emergency Rule — EmR0920**Finding of Emergency**

The Department of Corrections finds that an emergency exists and that rules included in this order are necessary for the immediate preservation of public peace, health, safety and welfare. A statement of the facts constituting the emergency is:

Under 2009 WI Act 28, an increased number of inmates are being considered for release. In addition, the department has developed a number of release initiatives to address an inmate's successful transition from incarceration to community life. As part of those initiatives, there are costs associated with that transition, including acquiring housing, employment, and transportation. For example, an inmate must have a social security card, a driver's license or state identification card, the first months rent and security deposit for an apartment, and civilian clothing.

Under the current rule, an inmate may only use release account funds for "adequate clothing for release" and for "out-of-state release transportation." In addition, the rule limits the maximum amount of money which can be saved in the release account to \$500.00. The emergency rule immediately permits the use of release account money for a wide variety of purchases, including fees associated with obtaining a driver's license or state identification card, housing, and a mode of transportation (bus tickets, vehicle, bicycle, etc.). In the past the Department has borne some of these costs, despite an inmate having the money in his or her release account. Given the initiatives of reentry and release, an inmate should be responsible for these expenditures.

In addition, the emergency rule raises the limit on release accounts from \$500.00 to \$5,000.00. Since the current limit was established, the cost of living in the community has risen.

The department seeks this change to reflect the significant costs of housing, transportation, and food and other necessities.

If the rule is not created promptly and immediately, the department will not be able to use inmate release account funds to pay for items which inmates need in preparation for their release to the community. The purpose of the emergency rule is to permit inmates to use release account funds for a greater range of expenditures related to their release from incarceration and transition back into the community. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to respond promptly to the need to use inmate funds, not state funds, while permanent rules are being developed.

Analysis Prepared by Department of Corrections***Statute interpreted***

Section 301.32, Stats.

Statutory authority

Sections 227.11 (2) and 301.03, Stats.

Explanation of agency authority

The Department of Corrections has the authority to control an inmate's funds which are received during the inmate's period of incarceration. In addition, the Department has the responsibility of preparing inmates for their eventual release into the community, including assisting them in establishing a release account which can be used for a variety of purposes.

Plain language analysis

The current rule prohibits the disbursement of funds from inmate release accounts, except for very limited purposes. Specifically, the rule limits the use of funds from inmate release accounts prior to release to the purchase of "adequate clothing for release" and for "out-of-state release transportation." The current rule provides for the Department to deduct fifteen percent (15 %) of all income earned by or received for the benefit of the inmate with the exception of work release or study release funds under ch. DOC 324. The current rule also has a limit on the amount which can be accumulated in the release account of \$500.00.

The rule proposal expands the purposes for which inmate release account funds can be used. Under the proposal, the Department may approve disbursement of funds for purposes which will aid in the inmate's reintegration into the community. The Department reduced the percentage of deduction to ten percent (10 %) but increased the amount which can be accumulated in the release account to \$5,000.00. The Department has also provided for the amount to be increased in accordance with the Consumer Price Index as defined in s. 16.004 (8) (e) 1., Stats., every five (5) years starting January 1, 2010. The increase in the limit and the process for a continued increase are in response to the increased living costs which inmates face upon release from prison.

Text of Emergency Rule

SECTION 1. DOC 309.466 (1) and (2) are amended to read:

DOC 309.466 (1) ~~After the crime victim and witness assistance surcharge has been paid in full, as provided for in s. DOC 309.465, and upon Upon~~ transfer of the inmate to the first permanent placement, following assessment and evaluation under s. DOC 302.12, and in all subsequent placements, the institution business office shall deduct ~~45~~ 10% of all income earned by or received for the benefit of the inmate, except from work release and study release funds

under ch. DOC 324, until \$500 ~~\$5,000~~ is accumulated, and shall deposit the funds in a release account in the inmate's name. The department shall adjust the maximum release account amount every 5 years by multiplying \$5,000 by the percentage increase of the Consumer Price Index, as defined in s. 16.004 (8) (e) 1., Stats., from January 1, 2010 to January 1 of the next fifth year [2015, 2020] and adding that amount to \$5,000, rounded to the nearest \$100 increment.

(2) Release account funds may not be disbursed for any reasons until the inmate is released to field supervision, except to purchase adequate clothing for release and for out-of-state release transportation. Prior to release, an inmate may request to have release account funds disbursed for purposes that are authorized by the department and that will aid the inmate's reintegration into the community or that will reimburse the department for incarceration costs, including legal loans and restitution. Following the inmate's release, these funds shall be disbursed in accordance with s. DOC 309.49 (5).

SECTION 2. DOC 309.466 (5) is created to read:

(5) The institution business office shall disburse release account funds in accordance with s. DOC 309.48.

SECTION 3. DOC 309.48 (title) is amended to read:

DOC 309.48 Procedure for inmate requests for disbursements of ~~general inmate~~ account funds.

SECTION 4. DOC 309.49 (title) is amended to read:

DOC 309.49 (title) Disbursement of ~~general inmate~~ account funds.

SECTION 5. DOC 309.49 (4m) is created to read:

DOC 309.49 (4m) An inmate may request that the institution business office disburse release account funds. The institution business office shall disburse release account funds only for reasons consistent with the purposes under s. DOC 309.466 or subject to a lawful court order.

Proposed Permanent Rule — CR 09-075

Analysis Prepared by Department of Corrections

Statute interpreted

Section 301.32, Stats.

Statutory authority

Sections 227.11 (2) and 301.03, Stats.

Explanation of agency authority

The Department of Corrections has the authority to control an inmate's funds which are received during the inmate's period of incarceration. In addition, the Department has the responsibility of preparing inmates for their eventual release into the community, including assisting them in establishing a release account which can be used for a variety of purposes.

Related statute or rule

Chapter DOC 309, Wis. Adm. Code, Resources for Inmates.

Plain language analysis

The current rule prohibits the disbursement of funds from inmate release accounts, except for very limited purposes. Specifically, the rule limits the use of funds from inmate release accounts prior to release to the purchase of "adequate clothing for release" and for "out-of-state release transportation." The current rule provides for the Department to deduct fifteen percent (15 %) of all income earned by or received for the benefit of the inmate with the exception of

work release or study release funds under ch. DOC 324. The current rule also has a limit on the amount which can be accumulated in the release account of \$500.00.

The rule proposal expands the purposes for which inmate release account funds can be used. Under the proposal, the Department may approve disbursement of funds for purposes which will aid in the inmate's reintegration into the community. The Department reduced the percentage of deduction to ten percent (10 %) but increased the amount which can be accumulated in the release account to \$5,000.00. The Department has also provided for the amount to be increased in accordance with the Consumer Price Index as defined in s. 16.004 (8) (e) 1., Stats., every five (5) years starting January 1, 2010. The increase in the limit and the process for a continued increase are in response to the increased living costs which inmates face upon release from prison.

Comparison with federal regulations

There are no federal regulations which address inmate release accounts.

Comparison of rules in adjacent states

Illinois

There are no administrative code provisions which address inmate release accounts.

Indiana

There are no administrative code provisions which address inmate release accounts.

Iowa

There are no administrative code provisions which address inmate release accounts.

Michigan

There are no administrative code provisions which address inmate release accounts.

Minnesota

There are no administrative code provisions which address inmate release accounts.

Analysis and supporting documents used to determine effect on small businesses

No economic impact report was required.

Text of Proposed Rule

SECTION 1. DOC 309.466 (1) and (2) are amended to read:

DOC 309.466 (1) ~~After the crime victim and witness assistance surcharge has been paid in full, as provided for in s. DOC 309.465, and upon~~ Upon transfer of the inmate to the first permanent placement, following assessment and evaluation under s. DOC 302.12, and in all subsequent placements, the institution business office shall deduct ~~45~~ 10 % of all income earned by or received for the benefit of the inmate, except from work release and study release funds under ch. DOC 324, until \$500 ~~\$5,000~~ is accumulated, and shall deposit the funds in a release account in the inmate's name. The department shall adjust the maximum release account amount every 5 years by multiplying \$5,000 by the percentage increase of the Consumer Price Index, as defined in s. 16.004 (8) (e) 1., Stats., from January 1, 2010 to January 1 of the next fifth year [2015, 2020] and adding that amount to \$5,000, rounded to the nearest \$100 increment.

(2) Release account funds may not be disbursed for any reasons until the inmate is released to field supervision, except to purchase adequate clothing for release and for out-of-state release transportation. Prior to release, an inmate may request

to have release account funds disbursed for purposes that are authorized by the department and that will aid the inmate's reintegration into the community or that will reimburse the department for incarceration costs, including legal loans and restitution. Following the inmate's release, these funds shall be disbursed in accordance with s. DOC 309.49 (5).

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SECTION 5. DOC 309.49 (4m) is created to read:

DOC 309.49 (4m) An inmate may request that the institution business office disburse release account funds. The institution business office shall disburse release account funds only for reasons consistent with the purposes under s. DOC 309.466 or subject to a lawful court order.

Small Business Impact

The Department of Corrections has determined that the rule will not have a significant economic impact on a substantial number of small businesses since the rule does not regulate small businesses as that term is defined in s. 227.114, Stats.

Fiscal Estimate

Summary

Under the current administrative rule for inmate release accounts an inmate is required to deposit 15% of their earned or received income (received income is from a personal source) up to a maximum of \$500. The Department uses a declining balance approach for all outstanding debt based on the order deductions are to be applied and the percentage used. However, if an inmate has a FIFO (first in/first out) noted on his or her account, those debts must be met prior to any other outstanding obligations, including an inmate's release account. FIFO covers over draft payments, institution loans, medical co-payments, and victim witness obligations. Also, inmates that receive income from a personal source are not always obligated to pay outstanding debt with these funds. In some court cases a judge orders that income received from a personal source cannot be used towards outstanding debt. If that happens, the inmate receives these funds in full without any deductions applied.

The new administrative rule reduces the required deduction from 15% to 10% and increases the maximum amount from \$500 to \$5,000. The new rule also expands what an inmate can request out of his or her release account prior to release. Currently an inmate can only request funds for street clothing and out-of-state travel. Under this rule an inmate will be able to request funds prior to release to be used for re-entry purposes into the community as well as reimbursement costs related to incarceration, such as legal loans or restitution. The release of these funds must be authorized by the Department; otherwise the funds will be distributed upon release from prison.

The new rule also provides an adjustment to the maximum savings every five years based on the consumer price index

percentage. The consumer price index increase should increase the total amount an inmate can save into their release account.

Based on Department inmate release collection data from FY07-09 (3-years) an average of \$210.65 was saved per inmate during that time period. The proposal reduces the savings percentage from 15% to 10% of an inmate's earned or received income. The result of this change would be reduced savings by (\$10.53) or \$200.12 per inmate over a three year period. Based on the new average savings amount it would take an inmate 75 years to accumulate \$5,000. Currently, it takes 7 years of incarceration to reach \$500.

The procedural changes are not expected to have any state fiscal impact.

State fiscal effect

None.

Local government fiscal effect

None.

Agency Contact Person

Kathryn R. Anderson, Chief Legal Counsel
Department of Corrections
3099 East Washington Avenue, P.O. Box 7925
Madison, WI 53707-7925
Phone: (608) 240-5049; FAX (608) 240-3306
Email: Kathryn.Anderson@Wisconsin.gov

Notice of Hearing

Insurance

CR 09-076

NOTICE IS HEREBY GIVEN that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedures set forth in under s. 227.18, Stats. The Office of the Commissioner of Insurance (OCI) will hold a public hearing to consider the adoption of a proposed rule revising section Ins 3.39, Wis. Adm. Code, relating to guarantee issue and affecting small business.

Hearing Information

Date: October 15, 2009

Time: 10:00 a.m., or as soon thereafter as the matter may be reached

Place: OCI, Room 227
125 South Webster St. — 2nd Floor
Madison, WI

Submission of Written Comments

Written comments can be mailed to:

Julie E. Walsh
Legal Unit – OCI Rule Comment for Rule Ins 33934
Office of the Commissioner of Insurance
PO Box 7873
Madison WI 53707-7873

Written comments can be hand delivered to:

Julie E. Walsh
Legal Unit – OCI Rule Comment for Rule Ins 33934
Office of the Commissioner of Insurance
125 South Webster St – 2nd Floor
Madison WI 53703-3474

Comments can be emailed to:

Julie E. Walsh
julie.walsh@wisconsin.gov

Comments submitted through the Wisconsin Administrative Rule Web site at: <http://adminrules.wisconsin.gov> on the proposed rule will be considered.

The deadline for submitting comments is 4:00 p.m. on the 7th day after the date for the hearing stated in this Notice of Hearing.

Agency Contact Person and Copies of Proposed Rule

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the OCI internet Web site at <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Public Information and Communications, OCI, at: inger.williams@wisconsin.gov, (608) 264-8110, 125 South Webster Street — 2nd Floor, Madison WI or PO Box 7873, Madison WI 53707-7873.

Analysis Prepared by the Office of the Commissioner of Insurance (OCI)

Statutes interpreted

ss. 185.983 (1m), 600.03, 601.01 (2), 609.01 (1g) (b), 625.16, 628.34 (12), 628.38, 631.20 (2), 632.73 (2m), 632.76 (2) (b) and 632.81, 632.895 (6) and (9), Wis. Stats.

Statutory authority

ss. 600.01 (2), 601.41 (3), 601.42, 628.34 (12), 628.38, 632.73, 632.76, 632.81, Wis. Stats.

Explanation of agency authority

The statutes all relate to the commissioner's authority to promulgate rules regulating the business of insurance as it relates to Medicare supplement and Medicare replacement insurance products. Specifically, ss. 601.41, 625.16, 628.38, 632.73, 632.76, and 632.81, Wis. Stats., permit the commissioner to promulgate rules regulating various aspects of Medicare supplement and Medicare replacement products while s. 628.34, Wis. Stats., authorizes the commissioner to promulgate rules governing disclosure requirements and unfair marketing practices for disability policies, which includes Medicare supplement and Medicare replacement products.

Related statutes or rules

The Centers for Medicare & Medicaid Services (CMS) required the National Association of Insurance Commissioners (NAIC) to make conforming changes to the Medigap model regulation and delegated the function of implementing the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA, Public Law 110-175) to NAIC. CMS delegates enforcement of MIPPA and the underlying Medicare supplement and Medicare replacement insurance products to the states that have incorporated the NAIC Model Act into the state's insurance regulations. To date Wisconsin has passed several NAIC Model Acts through statute including the most recent modification to the NAIC Medigap Model. In Wisconsin Medicare supplement and Medicare replacement products are currently regulated through s. Ins 3.39, Wis. Adm. Code, inclusive of the appendices. The proposed rule modifies and adds to s. Ins 3.39, Wis. Adm. Code in order to comply with the MIPPA and the NAIC requirements, to the extent necessary, and updates the appendices to reflect those changes.

Plain language analysis and summary of the proposed rule

The proposed rule amends portions of the rule to more closely reflect the benefits provided by the NAIC Medicare Supplement Insurance Minimum Standards Model Act and reintroduces the use of high deductible Medicare supplement plans. Further, during prior rule-making the Board on Aging and Long-term Care requested broadening of the guarantee issue eligibility rights. The commissioner convened an advisory work group to assist in the review of existing guarantee issue rights and to determine whether revisions were warranted. The proposed rule includes two modifications to Ins. 3.39, Wis. Adm. Code, that arose from the recommendation of the advisory work group specific to guarantee issue rights.

Regarding modifications clarifying NAIC Model regulations relating to the two new plans that should lower premiums by requiring insureds to pay either 50% of hospital inpatient charges or copayments for office and emergency room visits. The proposed rule limits availability combinations of riders that can be used with the newer benefits as certain combinations would make any premium savings illusory. Specifically, issuers cannot issue both the Medicare Part A Deductible Rider and the Medicare 50% Part A Deductible Rider to the same insured for the same period of coverage. Similarly, issuers cannot issue both the Medicare Part B Deductible Rider and the Medicare Part B Copayments or Coinsurance Rider to the same insured for the same period of coverage.

The proposed rule further delineates that the Medicare Part B Copayment or Coinsurance Rider requires that the insured's copayment or coinsurance be the lesser of \$20.00 per office visit or the Medicare Part B coinsurance amount, with emergency room visits covered at the lesser of \$50.00 or the Medicare Part B coinsurance amount. The emergency room copayment or coinsurance amount shall be waived if the insured is admitted to any hospital and the emergency visit is subsequently covered as a Medicare Part A expense.

In addition to corrections, the proposed rule reintroduces the high-deductible Medicare supplement plan previously sunset. The reintroduction is in response to repeated requests from the industry and supported by the Board on Aging and Long-term Care. This permits insureds flexibility to purchase a product best suited to medical and financial needs. The product complies with the NAIC Model regulation is proposed to have policy effective on June 1, 2010 to permit issuers time to develop and have policy forms and advertising material approved by the office. The proposed rule also modified Appendix 3 to reflect these changes.

The annual high deductible shall be \$1,900.00 for 2010, and will be adjusted annually thereafter to reflect changes in the Consumer Price Index in the twelve-month period ending with August of the preceding year, rounded to the nearest multiple of \$10.00. The annual high deductible consists of out-of-pocket expenses, other than premiums, listed above and is in addition to any other specific benefit deductibles. An issuer must continue to make available for purchase any policy form or certificate form issued after May 31, 2010 that has been approved by the commissioner. A policy or certificate form will not be considered to be available for purchase unless the issuer actively offered it for sale within the previous twelve months. This is changed from an issue date of August 1, 1992.

Finally, the proposed rule also expands the category of eligible persons who are guaranteed issuance of Medicare supplements or Medicare replacement policies to those whose

payments for coverage substantially increase or to those whose plans terminate or cease to provide some or all such supplemental health benefits. The amount an individual pays for coverage under the plan is considered to substantially increase if the amount the individual pays for coverage under the plan increases by more than 25% from one 12-month period to the subsequent 12-month period, and the new payment for the employer-sponsored coverage is greater than the premium charged under the Medicare supplement plan for which the individual is applying. An issuer may require reasonable documentation to substantiate the increase of the cost of the coverage to the individual.

A second new guaranteed issue time period will arise when a hospital leaves a Medicare Select network. The issuer shall notify the insured that a hospital is leaving the Medicare Select network and that there is no other hospital within a 30-minute or 30-mile radius of the policyholder. This will trigger a guarantee issue opportunity for the insured affected by the change in network to purchase a new Medicare supplemental policy without being newly underwritten by the issuer.

Comparison with federal regulations

The proposed rule amendments will bring the rule in closer compliance with the NAIC Model Act. There are no existing or proposed federal regulations relating to the proposed changes in guarantee issue eligibility.

Comparison of similar rules in adjacent states

Illinois

Illinois has adopted the NAIC Model regulation creating the new Medigap plans M and N, and to incorporate the hospice care benefit as well as the new and innovative benefit requirements as required by MIPPA. No other state has the guarantee issue provisions as revised or access requirements.

Iowa

Iowa makes available to its Medicare beneficiaries Medigap policies A through J as required by the Medicare reform provisions under OBRA 1990 and the prior NAIC Model Regulation. Iowa has adopted the NAIC Model regulation as required. No other state has the guarantee issue provisions as revised or access requirements.

Michigan

Michigan makes available to its Medicare beneficiaries Medigap policies A through J as required by the Medicare reform provisions under OBRA 1990 and the prior NAIC Model Regulation. Michigan has not yet passed legislation to create new Medigap plans M and N, and to incorporate the hospice care benefit as well as the new and innovative benefit requirements as required by MIPPA. No other state has the guarantee issue provisions as revised or access requirements.

Minnesota

Minnesota, like Wisconsin, received a waiver from the federal standardization regulations. Minnesota makes available to its Medicare beneficiaries two standardized policies (basic and extended basic). Minnesota has adopted the GINA requirements of the NAIC Model regulation but as a waived state will not promulgate the MIPPA changes. No other state has the guarantee issue provisions as revised or access requirements.

Summary of factual data and analytical methodologies

CMS data indicate that Medicare currently covers 40 million Americans, 814,183 of whom are Wisconsin residents as of 2004. An estimated 27 percent of Medicare beneficiaries are covered by Medigap policies.

Information collected by the OCI indicates that 75 insurance companies offer Medicare supplement, Medicare cost and Medicare select (Medigap) policies to Wisconsin consumers eligible for Medicare due to age or disability. In addition, there are 25 insurance companies that have Medigap policyholders although the companies no longer market Medigap coverage in Wisconsin. At year end 2007, there were 247,142 Wisconsin Medicare beneficiaries with Medigap policies. The majority of these Wisconsin Medicare beneficiaries have Medigap policies that will be affected by the Medigap reforms under the MIPPA.

A 2000 report by CMS, Office of Research, Development, and Information, based on 2007 Medicare data indicates that Medicare paid 54–56% of the health care expenses of persons 65 or over, and private health insurance, including Medicare supplement policies paid 16% of these health care expenses. The report indicated that overall annual medical expenses in 2005 per Medicare beneficiary equaled \$6,697.

Analysis and supporting documents used to determine rule's effect on small businesses

OCI reviewed financial statements and other reports filed by life, accident and health issuers and determined that none qualifies as a small business. Wisconsin currently has 75 insurance companies offering Medicare supplement, Medicare cost and Medicare select insurance plans. None of these issuers meets the definition of a small business under s. 227.114, Wis. Stats.

There may be limited effects on intermediaries, however the requirement will not be significant and will mainly be comprised of learning new products and options for seniors.

Small Business Impact

This rule does not impose any additional requirements on small businesses.

This rule does not have a significant impact on regulated small businesses as defined in s. 227.114 (1), Wis. Stats., including intermediaries. OCI maintains a database of all licensed issuers in Wisconsin. The database includes information submitted by the companies related to premium revenue and employment. In an examination of this database, OCI identified that 75 insurance companies offer Medicare supplement, Medicare cost and Medicare select (Medigap) policies to Wisconsin consumers eligible for Medicare due to age or disability and none of those companies qualify by definition as a small business. In addition, 25 insurance companies have Medigap policyholders although the companies no longer market Medigap coverage in Wisconsin. Again, none of these 25 companies qualifies by definition as a small business. Although affected by this proposed rule change, intermediaries qualifying as small businesses may be affected but such effect will not be significant as previously described.

Pursuant to s. 227.114, Stats., the proposed rule may have an effect on small businesses. The initial regulatory flexibility analysis is as follows:

Initial regulatory flexibility analysis

Types of small businesses affected

Insurance intermediaries.

Description of reporting and bookkeeping procedures required

None beyond those currently required.

Description of professional skills required

None beyond those currently required.

Small business regulatory coordinator

The OCI small business coordinator is Eileen Mallow and may be reached at phone number (608) 266-7843 or at email address eileen.mallow@wisconsin.gov

Fiscal Estimate**State fiscal effect**

None.

Local government fiscal effect

None.

Long-range fiscal implications

None.

Private sector impact

The proposed rule will not significantly impact the private sector. Issuers offering Medigap policies (Medicare supplement, Medicare cost, and Medicare select policies) will incur costs associated with developing new Medigap policies and marketing materials, mailing riders and explanatory materials to existing policyholders and reprogramming claim processing systems. However, these costs are offset by the issuers' ability to continue offering Medigap policies to Wisconsin consumers and will not be significant. Intermediaries will need to use the newly developed forms and may incur nominal printing costs if the issuers do not provide forms to the agents, but such costs will not be significant.

Notice of Hearings**Natural Resources*****Fish, Game, etc., Chs. NR 1—
CR 09-077***

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.0916 and 227.11, Stats., the Department of Natural Resources (DNR) will hold public hearings on the creation of Chapter NR 52, Wis. Adm. Code, relating to public use of lands acquired under the Knowles-Nelson Stewardship Program.

Hearing Information

The hearings will begin at 6:30 p.m. on the following dates and locations:

October 14, Wednesday

DNR West Central Region Headquarters (Room 158/185)
1300 West Clairemont
Eau Claire, WI 54702

October 15, Thursday

Nicolet Area Technical College —
Learning Resources Center Theater
5364 College Drive
Rhinelander, WI 54501

October 20, Tuesday

Madison Area Technical College, Truax Campus
Student Lounge – 142C
3550 Anderson St.
Madison, WI 53704

October 21, Wednesday

Northeast Wisconsin Technical College
Room CB213 C&D
2740 W. Mason Street
Green Bay, 54307

October 22, Thursday

UW Washington County (Lecture Hall 201)
400 S University Drive
West Bend, WI 53095

A 30-minute informational briefing on the Knowles-Nelson Stewardship Program will precede the hearing (beginning at 6:00 p.m.). The hearings will begin at 6:30 p.m. with an overview of s. 23.0916, Stats., and an overview of the proposed rule. Public Comments will be accepted beginning at 7:00 p.m.

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please contact Doug Haag at (608) 266-2136 or DouglasJ.Haag@wisconsin.gov with specific information on your request at least 10 days before the date of the scheduled hearing.

Submission of Written Comments and Copies of Proposed Rule

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov> (search using keyword "NR 52"). Written comments on the proposed rule may also be submitted via U.S. mail to Mr. Douglas Haag, Bureau of Facilities and Lands, P.O. Box 7921, Madison, WI 53707 or by email to DouglasJ.Haag@Wisconsin.gov. Comments may be submitted until October 30, 2009. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. If you do not have Internet access, a personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Haag at the address above or by calling (608) 266-2136.

Analysis Prepared by Department of Natural Resources***Statutes interpreted***

Sections 23.0915 and 23.0917, Stats.

Statutory authority

Sections 29.0916 and 227.11, Stats.

Plain language rule analysis

Chapter NR 52 creates standards and criteria that will be used by the DNR and the Natural Resources Board to determine whether it is reasonable to prohibit one or more nature based outdoor activities, defined as hunting, trapping, hiking, fishing, and cross country skiing. The rule identifies three primary reasons for prohibiting one or more of these activities. The three reasons are; to protect public safety, to protect unique plant and animal communities, and to accommodate usership patterns. The rule also requires that when one or more nature based outdoor activities is proposed to be prohibited, the DNR will notify the public by posting the information on the DNR's website. The public will have a chance to comment on the proposal to buy the land and prohibit the activity. The DNR and the Natural Resources Board will evaluate the public comments and apply the standards and criteria identified in the rule when determining whether the prohibition meets the intent of s. 23.0916, Stats.

Comparison with federal regulations

The Land and Water Conservation Fund is a federal funding program administered by the U. S. National Park Service. This program provides funding for the acquisition of land and the development of facilities for public outdoor

recreation. The program does not include a specific requirement that lands and facilities be open to all nature based activities, rather the use of the funds is directed by the Statewide Comprehensive Outdoor Recreation Plan which identifies general trends in outdoor recreation and identifies broad regional and statewide needs for land acquisition and recreational facility development.

The U. S. Fish and Wildlife Service administers several programs that provide funding to the DNR for land acquisition and facility development. Most of these funds target specific purposes such as the protection of habitat for endangered species, coastal areas, and wetlands. In addition, there are funds for motor boat access acquisition and development, wildlife habitat protection and management, and fisheries habitat protection and development. Generally, land acquired with funds from the U. S. Fish and Wildlife Service must be open to the public. There are some limited restrictions on the types of activities allowed to occur on these federally funded properties.

Comparison with rules in adjacent states

Minnesota, Michigan, Iowa, and Illinois all have land acquisition programs that allow for the purchase of land, through either easements or fee simple purchases. Many of these programs are similar to the Nelson–Knowles Stewardship Program. However, these programs do not have the requirement that they be open to the public for hunting, fishing, trapping, hiking, and cross–country skiing.

Minnesota

The Natural and Scenic Areas Grant Program was created to increase, enhance, and protect Minnesota's natural and scenic areas. The program provides \$500,000 in matching grants each year for fee simple purchases and conservation easements of environmentally important lands. There is no requirement of public access for nature based outdoor recreational activities.

http://www.dnr.state.mn.us/grants/land/natural_scenic.html

Michigan

The Michigan Natural Resources Trust provides approximately \$35 million in financial assistance each year to local governments and the Michigan DNR to purchase land or rights in land for public recreation or for environmental protection or scenic beauty. It also provides financial assistance for the development of land for public outdoor recreation. This program lists public access and hunting and fishing opportunities as a scoring criteria and special initiative but does not require the land to be open to these specific activities.

http://www.michigan.gov/dnr/0,1607,7-153-10366_37984_37985-124961--,00.html

Iowa

The Resource Enhancement and Protection (REAP) grant program in Iowa was created to enhance and protect Iowa's natural and cultural resources. This program provides up to \$20 million in funding annually to acquire land for recreational purposes. Iowa's program does not specifically require the land be used for hunting, fishing, trapping, hiking, or cross–country skiing.

<http://www.iowadnr.gov/reap/index.html>

The Wildlife Habitat Promotion with Local Entities provides funding to county conservation boards for the acquisition and development of wildlife habitat. Land acquired through this program must be open to hunting and

trapping, and other compatible uses such as fishing, hiking, nature studying, cross–county skiing, etc.

<http://www.iowadnr.gov/grants/wildlife.html>

Illinois

The Open Space Lands Acquisition and Development Program in Illinois provides approximately \$20 million in funding assistance annually to local government agencies for acquisition and development of land for public parks and open space. There is no specific requirement for access for hunting, trapping, fishing, hiking, and cross–country skiing.

<http://www.dnr.state.il.us/ocd/newoslad1.htm>

Summary of factual data and analytical methodologies

2007 Wis. Act 20 included reauthorization of the Knowles–Nelson Stewardship Program that is the primary funding source for land acquisition for conservation and public outdoor recreation. Reauthorization included a provision requiring that certain lands acquired with funds from the stewardship program under ss. 23.0915 and 23.0917, Stats., be open to hunting, trapping, hiking, fishing, and cross country skiing. The Act provided for exceptions if the Natural Resources Board determines it is necessary to prohibit one or more of the activities to protect public safety, protect unique plant and animal communities, or to accommodate usership patterns. After the budget was approved, the DNR administered the Knowles–Nelson Stewardship Program according to an interim protocol adopted by the Natural Resources Board in December 2007. The interim protocol can be found at <http://dnr.wi.gov/stewardship/interim.html>.

The Natural Resources Board also established a subcommittee to evaluate the new law and gather public opinion about the law. The sub–committee held three listening sessions in April 2008 and invited public comment by personal testimony, email, and written comment. Over 130 people testified in person and the subcommittee received almost 500 communications in total. Information gathered at these listening sessions can be found at <http://dnr.wi.gov/stewardship/rule.html>.

The Natural Resources Board Stewardship Program Subcommittee reported the results of these listening sessions to the full Board on June 19, 2008. The Subcommittee's full report can be found at <http://dnr.wi.gov/stewardship/rule.html>.

In July 2008, the DNR appointed a 29–member citizen advisory committee to provide input on developing these administrative rules. The citizen advisory committee included members from a diverse group of recreational users. A complete listing of the members of the citizen advisory committee can be found at <http://dnr.wi.gov/org/caer/ce/news/PDF/stewmembers.pdf>.

The citizen advisory committee met 6 times between July 2008 and January 2009. A professional facilitator managed the meeting and lead the group through a variety of exercises intended to identify important issues. The DNR prepared 4 concept papers on the following topics: A Process for Review of Determinations Made Under s. 23.0916, Stats., Public Safety, Unique Plant and Animal Communities, and Usership Patterns. The papers were presented to the committee by DNR staff and the committee discussed the various concepts included in the papers and recommended changes. The final draft of these concept papers can be found at <http://dnr.wi.gov/stewardship/CAC/>.

All of the above-mentioned information has been reviewed by the DNR to assist with the drafting of these administrative rules.

Analysis and supporting documents used to determine effect on small business

These rules and the legislation, which grants the DNR rule making authority, do not have a significant fiscal effect on the private sector or small businesses.

Small Business Impact

No specific direct effect on small business is anticipated. This rule provides further guidance for the implementation of existing programs. It is anticipated that no new funding or business activity will be created.

Pursuant to s. 227.114, Stats., it is not anticipated that the proposed rules will have a significant economic impact on small businesses.

The DNR's Small Business Regulatory Coordinator may be contacted at DNRSsmallBusinessCoordinator@Wisconsin.gov or by calling (608) 266-1959.

Environmental Impact

The DNR has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the DNR may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the DNR's consideration of the impacts of the proposal and reasonable alternatives.

Fiscal Estimate

Summary

2007 Act 20 included reauthorization of the Knowles Nelson Stewardship Program which is the primary funding source for acquiring land for conservation and public outdoor recreation. Act 20 included a provision that certain lands acquired with funds from the Stewardship Program under ss. 23.0915 and 23.0917, Stats., be open to five nature based outdoor activities (NBOA's): hunting, trapping, hiking, fishing, and cross country skiing. The Act also provides for exceptions to the statute if it is necessary to prohibit one or more of the activities to protect public safety, protect unique plant and animal communities or to accommodate usership patterns.

This rule implements s. 23.0916, Stats., by creating standards and criteria that will be used by the Department to determine whether it is necessary to prohibit one or more nature based outdoor activity. The Department does not anticipate any fiscal impact to state or local government as it implements Ch. NR 52.

State fiscal effect

None.

Local government fiscal effect

None.

Agency Contact Person

Douglas Haag
Realty Operations Chief
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Notice of Hearings

Natural Resources

Fish, Game, etc., Chs. NR 1—

CR 09-078

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.063, 29.177 and 227.11, Stats., the Department of Natural Resources will hold public hearings on revisions to Chapter NR 10, Wis. Adm. Code, relating to the seasons for hunting deer.

Hearing Information

The public hearings will begin at 6:30 p.m. with an informational presentation and overview of the proposed rule. Public comments and statements will be accepted beginning at 7:00 p.m.:

October 14, 2009	Crivitz Village Hall 800 Henriette Ave, PO 727 Crivitz
October 15, 2009	Onalaska High School Field House 700 Hilltopper Place Onalaska, WI 54650
October 21, 2009	Lussier Family Heritage Center — Main Level, 3101 Lake Farm Road Madison
October 21, 2009	James Williams Middle School 915 Acacia Lane Rhinelander
October 21, 2009	Ashland AmericInn Conf. Center, 3009 Lakeshore Drive E. Ashland
October 26, 2009	Fox Valley Technical College, Appleton Campus, Room C190 1825 North Bluemound Drive Appleton
October 26, 2009	Chippewa Valley Technical College Auditorium, Room M103 620 W. Clairemont Ave. Eau Claire
October 28, 2009	Waukesha County Technical College Room C051/C057 800 Main Street Pewaukee
October 28, 2009	Spooner High School Auditorium 801 County A Spooner
November 3, 2009	Portage County Courthouse Annex Conf. Room 1, 1462 Strongs Ave. Stevens Point

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Scott Loomans at (608) 267-2452 with specific information on your request at least 10 days before the date of the scheduled hearing.

Submission of Written Comments and Copies of Proposed Rule

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet

sites: <http://adminrules.wisconsin.gov> or <http://dnr.wi.gov/>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Keith Warnke, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until November 3, 2009. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Warnke.

Analysis Prepared by Department of Natural Resources

Statutes interpreted

Sections 29.014, 29.063, 29.177 and 227.11, Stats.

Statutory authority

Sections 29.014, 29.063, 29.177 and 227.11, Stats.

Plain language analysis

These proposed rules establish the deer season framework for hunting with archery gear, firearms and muzzleloaders.

November firearm season	Statewide 16-day season beginning two Saturdays prior to the Thanksgiving holiday. CWD zone would use the same dates. Season would be the normal bucks plus variable quota system
Archery seasons	Opens statewide on the Saturday closest to September 15 and continues through the Thursday immediately prior to November firearm season. Statewide season reopens on 1 st day of the November gun season and continuing through the 2 nd Sunday in January. In herd-control units, the archery season would continue through January 31. Bonus buck incentive for all hunters beginning December 26 through January 31 in herd control units. CWD zone would use the same dates.
Youth season	Statewide 5-day, either-sex season beginning the 2 nd Saturday in October. Saturday through Wednesday.
Early muzzleloader season	Statewide 5-day, antlerless-only by permit beginning the 2 nd Saturday in October. Saturday through Wednesday.
October herd control firearm seasons	Herd control units only. 5-day, antlerless-only season beginning the 2 nd Saturday in October. CWD October season would use same dates. Saturday through Wednesday. When October herd control seasons are held on lands that are part of the Kettle Moraine State Forest, the five-day season will begin on the Thursday nearest October 27.
Late muzzleloader season	Statewide 7-day season beginning the Monday immediately following the November firearm season (Bucks plus quota). CWD zone would use the same dates.
December firearm season	Central Forest & Farmland zones. 4-day, antlerless-only season beginning the Thursday immediately following the late muzzleloader season. Appropriate antlerless permit required. CWD zone would use the same dates.

Holiday herd control firearm season	Central Forest & Farmland zones. Herd control units only, 10-day antlerless-only season beginning December 26 th . CWD zone would use same dates
Bonus buck incentive	Hunters harvesting an antlerless deer in herd control units beginning on December 26 with this incentive are eligible for a bonus buck tag valid through the end of all deer seasons.
Public/private land tags	Herd control units only and only outside of the CWD Management Zone. Herd control tags will be specific to public or private lands. Public land tags will be issued based on the percentage of public land within herd control units.

Related rule or statute

One administrative rule that is currently under promulgation, CR 09-024, the annual wildlife management housekeeping rule, would amend language in section 2. of this board order. This board order reflects that proposed change.

Comparison with rules in adjacent states

All of Wisconsin's surrounding states use hunting seasons to provide hunting opportunities and to manage white-tailed deer herds. All of the surrounding states utilize a range of hunting seasons and allow the use of archery equipment, firearms and muzzleloading firearms at certain times. The seasons proposed in this rule order do not vary significantly from the hunting opportunities that are available in other states.

Illinois

The Illinois archery season in most of the state runs from October 1-January 17 except that it is closed during the firearm deer season. Illinois has two periods for firearm deer hunting. The first firearm season in 2009 is November 20, 21, 22 and the second season is December 3, 4, 5, 6. The Illinois muzzleloader only season will be December 11, 12, 13 in 2009.

Iowa

There are two archery hunting periods, the first is October 1-Dec. 4 and the second is December 21-January 10, 2010. Iowa also has two periods for firearm hunting, December 5-9 and December 12-20. Iowa's two muzzleloader only hunting periods are October 17-25 and December 21-January 10.

Michigan

Michigan has two archery hunting periods, the first beginning on October 1 and continuing through November 14 and the second running December 1-January 1. The Michigan firearm season begins on November 15 and continues through November 30. Michigan's muzzleloader-only seasons vary in three zones, all occurring in December and vary from 10 to 17 days in length.

Minnesota

Minnesota's archery season runs from September 19 to December 31. Minnesota's firearm season begins on November 7 and continues to November 15 or 22 depending on the zone. The muzzleloader-only season runs from November 28 to December 13.

Comparison with federal regulations

These state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of federal statutes and regulations. Regulating the hunting and trapping of native species has been delegated to state fish and wildlife agencies.

Summary of factual data and analytical methodologies

Deer affect nearly every Wisconsin citizen's life in some way. Many of these effects are significant from a recreational, economic, and/or social perspective. There are over 650,000 gun deer hunters and 250,000 bow hunters in Wisconsin. Regulations which require the harvest of an antlerless deer before a buck, called earn-a-buck, have been implemented where necessary to reduce deer populations since 2004. In May of 2009 the department, general public, and members of a committee created by the Natural Resources Board were charged with working together to recommend a deer hunting season structure that could be an effective alternative to earn-a-buck regulations. Acceptable alternatives must be shown to be effective for deer population management and supported by hunters and landowners and able to be evaluated through established benchmarks. The committee's recommended season structures are the basis for construction of this rule proposal.

The committee arrived at its recommendations after evaluating the expected effectiveness of each season component using conservation warden and biologist/wildlife manager input on enforceability and effectiveness, while also taking into consideration the acceptable level of hunter and landowner support needed to ensure participation in herd control seasons. Effectiveness was defined as the ability of a season or incentive to maintain herd populations at or near goal. This includes requiring the ability to allow targeted herd control to reduce over population while also allowing the flexibility to protect from over harvest in units that are at or below goal.

The guidelines for deer management in Wisconsin are established by administrative rule and require consideration of the following criteria; 1) carrying capacity relative to habitat and winter severity, 2) hunter success and public deer viewing opportunities, 3) ecological and economic impacts of deer browsing, 4) disease transmission. 5) concern for deer-vehicle collisions 6) Chippewa treaty harvest, 7) hunter access, 8) ability to keep the herd in a unit at goal, 9) tolerable levels of crop damage.

Small Business Impact

These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, and no design or operational standards are contained in the rule.

Pursuant to s. 227.114, Stats., it is not anticipated that the proposed rules will have a significant economic impact on small businesses.

The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

Environmental Impact

The Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Fiscal Estimate**Summary**

The proposed new season framework is a significant modification to the existing structure. The Department already administers hunting seasons for firearm, archery, and muzzleloader hunters, therefore, it is anticipated that the amount of effort and expense that the Department incurs while administering the deer seasons will be similar for the proposed new season framework.

State fiscal effect

None.

Local government fiscal effect

None.

Long-range fiscal implications

None.

Agency Contact Person

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Notice of Hearings**Natural Resources**

*Environmental Protection — Water Supply,
Chs. NR 800—*

CR 09-073

NOTICE IS HEREBY GIVEN that pursuant to ss. 280.11 and 281.17 (8), Stats., the Department of Natural Resources will hold public hearings on repealing and recreating Chapters NR 809 and 811; and creating Chapter NR 810, Wis. Adm. Code, relating to public drinking water systems.

Hearing Information

The hearings will be held on the following dates and locations:

October 14, Wednesday, 10:00 a.m.
University of Wisconsin—Waukesha, Room C103
1500 N. University Drive, Waukesha, WI 53188

October 21, Wednesday, 1:00 p.m.
University of Wisconsin—Green Bay
Mary Anne Coffrin Hall Room 137 (MAC 137)
2420 Nicolet Drive, Green Bay, WI 54311

October 22, Thursday, 1:00 p.m.
State Natural Resources Building (GEF 2), Room 713
101 South Webster Street, Madison, WI 53703

October 27, Tuesday, 1:00 p.m.
University of Wisconsin—Eau Claire, Old Library 1118
105 Garfield Avenue, Eau Claire, WI 54702

October 28, Wednesday, 10:00 a.m.
UWEX Spooner Northern District Conference Room
702 Front Street, Spooner, WI 54801

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call James McLimans at (608) 266-2726 with

specific information on your request at least 10 days before the date of the scheduled hearing.

Submission of Written Comments and Copies of Proposed Rule

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Lee Boushon, Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until November 11, 2009. Written comments, whether submitted electronically or by U.S. mail, will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Boushon.

Analysis Prepared by Department of Natural Resources

Statutory authority

Sections 280.11 and 281.17 (8), Stats.

Plain language analysis

The proposal was triggered by changes in the federal Safe Drinking Water Act. The Stage 2 Disinfection Byproduct Rule was promulgated on 1/04/2006 and revises the monitoring locations and compliance calculation methods for disinfection byproducts. The Long Term 2 Enhanced Surface Water Treatment Rule was promulgated on 1/05/2006 and requires increased source water monitoring with new treatment levels associated with the monitoring results. The Groundwater Rule was promulgated on 11/08/2006 and requires that water systems initiate new monitoring and correct significant deficiencies identified during department inspections in order to protect consumers from viruses. The Short Term Revisions to the Lead and Copper Rule were promulgated on 10/10/2007 and changed the monitoring, reporting and public notification requirements related to lead and copper.

In order to maintain primacy for the Safe Drinking Water Act, Wisconsin must adopt all federal requirements under the Act or have requirements that are more stringent than the Act.

In addition to adopting the federal rules, the proposed rules include a requirement for mandatory disinfection at municipal water systems as an enhancement of the federal requirements, updates and clarifications to design standards for community water systems, and creation of a separate administrative rule on operations and maintenance of public water systems in order to improve the usability of the drinking water codes.

The major impact of the rule changes will be related to the Stage 2 Disinfection Byproduct Rule because of the large number of municipal water systems that disinfect (over 500) and the changes to the monitoring requirements and compliance calculations. Additionally, the requirement for mandatory disinfection of all municipal water system will require 71 municipal water systems that do not currently disinfect to do so.

Comparison with federal regulations

The proposed rules will make state regulations compatible with federal regulations, satisfying the primacy requirements of the Safe Drinking Water Act and will update and clarify other state requirements.

Comparison with similar rules in adjacent states

A significant portion of the rule changes are based on changes to the federal rules. The adjacent states are in the

process of adopting the federal rule changes. The changes to design standards are not based on federal rule changes. The adjacent states all have design standards based on the "Recommended Standards for Water Works" published by the Great Lakes Upper Mississippi River Board of State Public Health and Environmental Managers. These standards are updated on a 5 year cycle. Wisconsin is represented on the Water Supply Committee for development of the standards. The rule changes for design standards are the same or similar to the published standards. The federal rules do not require mandatory disinfection of groundwater systems. Illinois currently requires disinfection of all community water systems. All of the other adjacent states have mandatory disinfection for community water systems using groundwater based on their vulnerability to contamination by bacteria. All of the adjacent states will be evaluating disinfection at public water systems as part of the federal Groundwater Rule adoption and will be expanding disinfection requirements to systems vulnerable to fecal contamination.

Summary of factual data and analytical methodologies

The bulk of the rule changes are based on federal rule changes, changes to nationally recognized design standards, and clarification or updating comments gathered during a series of stakeholder meetings. The rule change associated with mandatory disinfection of municipal water systems served by groundwater stems in part from the federal Groundwater Rule and in part from research in Wisconsin on virus occurrence, illness related to viruses in drinking water, and the impact of disinfection on reducing viral related illness. The research studies considered were a Wisconsin Water and Health Trial for Enteric Risk (WAHTER) study conducted by the Marshfield Clinic Research Foundation and "An Assessment of Virus Presence and Potential Virus Pathways in Deep Municipal Wells" conducted by the Wisconsin Geological and Natural History Survey. The WAHTER study investigated the relationship between virus occurrence and illness rates in 14 Wisconsin communities using undisinfected and disinfected groundwater. The assessment study evaluated the occurrence of viruses in the deep wells serving the City of Madison. These studies support the following conclusions:

1. Use of alternate parameters, as proposed by the Groundwater Rule, is inadequate to predict virus occurrence or the vulnerability of wells to contamination by viruses.
2. Viruses occur in municipal wells that are not vulnerable using current assessment tools.
3. Illness attributable to viruses is occurring at municipal water systems supplied by groundwater.
4. Disinfection reduces the illness rates attributable to viruses at municipal water systems supplied by groundwater.

It is proposed to require mandatory disinfection of all municipal water systems served by groundwater based on the intent of the Groundwater Rule to reduce illness rates attributable to viruses at groundwater systems and conclusions drawn from a review of studies conducted on viral illness and virus occurrence in Wisconsin.

Analysis and supporting documents used to determine the effect on small business

An analysis of the effect of the proposed rules on small business was not performed since the primarily impacted systems are community water systems serving municipal water systems, which are not small businesses.

Small Business Impact

These rules should not have a significant impact on small business since the water systems operated by small businesses such as taverns and restaurants are already subject to the inspection and deficiency correction requirements included in the rule modifications.

Pursuant to s. 227.114, Stats., it is not anticipated that the proposed rules will have a significant economic impact on small businesses.

The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

Environmental Impact

The Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Fiscal Estimate

State government fiscal effect

Increase in costs — may be possible to absorb within agency's budget.

Local government fiscal effect

Mandatory increase in costs.

Types of local governmental units affected

Villages, Cities, Sanitary Districts.

Fund sources affected

FED.

Affected Ch. 20 appropriations

Section 20.370 (4) (mm), Stats.

DNR fiscal impact

A. Groundwater Rule

1. One-Time Costs

This rule will require the Department to issue and track additional monitoring requirements. This will require modification to the Department's Drinking Water Data System. The Department estimates that this modification will take approximately 100 hours of contract programming time at an estimated hourly rate of \$84. Therefore, 100 hours database architect contract programming time x \$84/hour = \$8,400

2. Annual Costs

- a. The rule requires the Department to conduct sanitary surveys at all community water systems at least once every three years. The Department currently conducts sanitary surveys once every five years. The Department plans to offset the fiscal impact of increasing the frequency of sanitary surveys, by eliminating annual inspections at municipal water systems; therefore, the net fiscal impact of this requirement is estimated to be zero.
- b. The rule requires the Department to complete a more complex review of monitoring plans for

approximately 100 municipal systems that have multiple pressure zones within their service area. The Department estimates that each review will require 1 hour of staff time for a water supply engineer. Therefore, 100 reviews x 1 hr./review x \$39.20/hr. salary and fringe for a water supply engineer = \$3,920.

- c. The rule requires the review of certain treatment systems for virus inactivation. The Department estimates that approximately 50 systems have treatment systems that will require Departmental review and that each review will take approximately 8 hours of staff time for a water supply engineer. Therefore, 50 reviews x 8 hrs./review x \$39.20/hr. salary and fringe for a water supply engineer = \$15,680.
- d. The rule requires the Department to revise the sanitary survey process for transient non community (TNC) systems to include eight federally-required elements. For every TNC sanitary survey, the Department estimates that the rule change will require approximately 1 additional hour of staff time for a water supply specialist. There are approximately 9,500 TNC systems in Wisconsin that require a sanitary survey at least once every five years, meaning that approximately 1,900 TNC systems will require sanitary surveys annually. Therefore 1,900 reviews x 1 hr./review x \$32.06/hr. salary and fringe for a water supply specialist = \$60,914.

B. Stage 2 Disinfectants and Disinfection Byproduct Rule

1. One-time Costs

- a. The rule requires the Department to issue and track additional monitoring requirements. This will require modification of the Department's Drinking Water Data System. The Department estimates that this modification will take approximately 50 hours of contract programming time at an estimated hourly rate of \$84. Therefore, 50 hours of database architect contract programming time x \$84/hour = \$4,200.

C. Long Term 2 Enhanced Surface Water Treatment Rule

1. One-time Costs

- a. The rule will require the Department to issue and track additional monitoring requirements. This will require modification of the Department's Drinking Water Data System. The Department estimates that this modification will take approximately 50 hours of contract programming time at an estimated hourly rate of \$84. Therefore, 50 hours of database architect contract programming time x \$84/hour = \$4,200.

In total, the rule will result in additional one-time costs of \$16,800 and additional annualized costs of \$80,500 and approximately 1.34 FTE of staff time required to implement the rule.

Local government fiscal impact

A. Stage 2 Disinfectants and Disinfection Byproduct Rule

1. Annual Costs

- a. The rule will require additional monitoring of disinfection byproducts. The Department estimates that 615 systems affected by this rule will be required to collect additional samples at an average cost of \$580/system for a total estimated cost of \$356,700.

B. Long Term 2 Enhanced Surface Water Treatment Rule**1. One-time Costs**

- a. The rule will require all municipal systems with surface water sources to complete additional source water monitoring for cryptosporidium and e-coli. There are currently 20 surface water systems in Wisconsin. The rule will require these systems to conduct 24 samples over a 5-year period starting in 2015. The estimated cost of the required analysis is \$500/sample. Therefore, 20 surface water systems x 24 samples x \$500/sample = \$240,000.

C. Mandatory Disinfection Rule**1. One-time Costs**

- a. The rule will require all municipal water systems to disinfect drinking water. There are currently approximately 71 systems in Wisconsin serving water that is not disinfected, although all systems are required to have the necessary equipment to disinfect. The Department estimates that approximately 50 wells will need new disinfection equipment in order to implement permanent disinfection. The Department estimates that installing new disinfection equipment will cost approximately \$10,000/well. Therefore, 50 municipal wells x \$10,000/well = \$500,000.
- b. The rule will require all municipal water systems to disinfect drinking water. There are approximately 71 systems in Wisconsin serving water that is not disinfected. When these systems begin disinfection they will be required to conduct preliminary monitoring for disinfection by products. This preliminary monitoring will require two samples per quarter at a cost of \$350/sample. Therefore, 71 systems x 2 samples/quarter x 4 quarters x \$350 = \$198,800.

2. Annual Costs

- a. The rule will require all municipal water systems to disinfect drinking water. There are currently approximately 71 systems in Wisconsin serving water that is not disinfected. The Department estimates that chemicals for disinfection at these systems will cost an average of \$145/month. Therefore, 71 systems x \$145/month x 12 months = \$123,540.
- b. The Department estimates that the 71 systems affected by this rule will also incur additional costs to conduct disinfection by-product monitoring. These systems will be required to collect 2 samples once every 3 years at a cost of \$350/sample. Therefore, 71 systems x 2 samples x \$350/sample ÷ 3 (once every 3 years) = \$16,600.

In total, the rule will result in additional one-time costs of \$938,800 and additional annualized costs of \$496,800 for local units of government.

Agency Contact Person

Lee Boushon
Chief Public Water Supply Section
Phone: (608) 266-0857
Email: lee.boushon@wisconsin.gov

Notice of Hearing**Public Instruction****EmR0921 and CR 09-071**

NOTICE IS HEREBY GIVEN That pursuant to ss. 121.91 (4) (o) 1. and 227.11 (2) (a), Stats., the Department of Public Instruction will hold a public hearing to consider emergency and proposed permanent rules to create Chapter PI 15, relating to revenue limit exemptions for energy efficiencies.

Hearing Information

The hearing will be held as follows:

Date and Time

November 9, 2009

3:00 – 4:00 p.m.

Location

Madison

GEF 3 Building

125 South Webster St.

Room 041

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call David Carlson, Director, School Financial Services, (608) 266-6968 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Copies of Proposed Rule and Contact Person

The administrative rule and fiscal note are available on the internet at <http://dpi.wi.gov/pb/rulespg.html>. A copy of the proposed rule and the fiscal estimate also may be obtained by sending an email request to lori.slauson@dpi.wi.gov or by writing to:

Lori Slauson

Administrative Rules and Federal Grants Coordinator

Department of Public Instruction

125 South Webster Street — P.O. Box 7841

Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above mail or email address no later than November 13, 2009, will be given the same consideration as testimony presented at the hearing.

Analysis Prepared by the Department of Public Instruction**Statute interpreted**

Section 121.91 (4) (o) , Stats., and 2009 Wis. Act 28, Section 9339. Initial applicability; Public Instruction (6) (b).

Statutory authority

Sections 121.91 (4) (o) 1. and 227.11 (2) (a), Stats.

Explanation of agency authority

Section 121.91 (4) (o) 1., Stats., requires the department to promulgate rules to implement s. 121.91 (4) (o) 1., Stats., including eligibility standards for school districts that wish to increase their revenue limit by the amount spent in that school year on energy efficiency measures, and renewable energy products, that result in the avoidance of, or reduction in, energy costs.

Section 227.11 (2) (a), Stats., gives an agency rule-making authority to interpret the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

Related statute or rule

N/A

Plain language analysis

2009 Wisconsin Act 28, the 2009–11 biennial budget bill, created a revenue limit exemption that allows a school district to increase its revenue limit by the amount spent by the school district in that school year on energy efficiency measures, and renewable energy products, that result in the avoidance of, or reduction in, energy costs.

The proposed rule establishes eligibility standards and procedures for school districts to follow when implementing revenue limit exemptions for energy efficiency measures. Specifically, school boards of the school districts are required to:

- Identify the specific new expenditures.
- Identify the performance indicators to measure the cost savings as a result of the expenditures.
- Identify the period of time in which the expenditure will be recovered by the cost savings.
- Pass a resolution with specified information by November 1 in the school year in which a tax is to be levied for the expenditure.
- Submit a copy of the resolution to the department within two weeks of passage.
- Levy the amount specified in the resolution when establishing its tax levies.
- Incur the expenditure authorized in its resolution.
- No later than two weeks following the date of the school district's budget hearing, submit to the department specified contents of the addendum to the school district's published budget summary.
- Reduce the school district's following year's revenue limit by the amount of any additional revenue received as a result of the exemption and by the amount levied for which there is not a documented energy expenditure, if any.
- Prohibit any additional revenue received by a school district from being included in the base for determining the school district's revenue limit for the succeeding school year.

In addition, the department is required to:

- Post on its website all the resolutions received by school districts.
- Adjust a school district's revenue limit to include the levy amount specified in the resolution.
- Post on its website the addendum contents received by school districts.
- Reduce a school district's revenue limit for the following year by the amount of any additional revenue received as a result of the exemption.
- Reduce the school district's revenue limit for the following year by an amount the school district levied for which there is no documented expenditure authorized under the exemption, if any.

Because November 6 (school district tax levy due date) is the deadline for determining revenue limits for the 2009–10 school year, emergency rules need to be in place by the fall of 2009.

Comparison with federal regulations

N/A

Comparison with rules in adjacent states

Illinois, Iowa, Michigan, and Minnesota do not have rules relating to revenue limits.

Summary of factual data and analytical methodologies

2009 Wisconsin Act 28 provided that a school district's revenue limit may be increased by the amount spent by the district in that school year on energy efficiency measures and renewable energy products that result in avoidance of, or reduction in, energy costs, beginning with revenue limits calculated in the 2009–10 school year. The department is required to promulgate rules to implement this provision, including standards and guidelines districts must meet to use this adjustment. The department is allowed to promulgate emergency rules without the finding of an emergency to implement this provision. A school board is required to adopt a resolution to increase its revenue limit under this provision. The adjustment is nonrecurring.

The rules focus on the process that school districts must use to request energy efficiency revenue limit exemptions and to ensure that the additional expenditure/taxing authority is offset with documented cost savings.

Analysis and supporting documents used to determine effect on small business

N/A

Anticipated costs incurred by private sector

N/A

Small Business Impact

The proposed rules will have no significant economic impact and are not anticipated to have a fiscal impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Fiscal Estimate

2009 Wis. Act 28 and the rules allow a school district to increase its revenue limit by the amount spent by the school district in that school year on energy efficiency measures and renewable energy products that result in the avoidance of, or reduction in, energy costs.

The rules focus on the process that school districts must use to request energy efficiency revenue limit exemptions and to ensure that the additional expenditure/taxing authority is offset with documented cost savings. The rule, itself, will not increase local revenue. It is the school district's choice as to whether they want to spend money on energy efficiency measures or products and then levy taxes to pay for it. Any additional revenue received by the school district may not be included in the base for the succeeding school year. In addition, the school district's following school year's revenue limit will be reduced by the amount levied for which there is not a documented energy expenditure.

The costs associated with administering this grant program will be absorbed by the department.

Agency Contact Person

David Carlson, Director
 School Financial Services
 Phone: (608) 266–6968
 Email: david.carlson@dpi.state.wi.us

**Notice of Hearing
Public Instruction
EmR0916 and CR 09-074**

NOTICE IS HEREBY GIVEN That pursuant to ss. 119.23 (2) (a) 3. and (11) and 227.11 (2) (a), Stats., the Department of Public Instruction will hold a public hearing to consider emergency and proposed permanent rules to revise Chapter PI 35, relating to establishing a nonrefundable fee under the Milwaukee Parental Choice Program.

Hearing Information

The hearing will be held as follows:

Date and Time	Location
October 26, 2009 4:30 – 6:00 p.m.	Milwaukee MPS Administration Bldg. 5225 W. Vliet Street Auditorium

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call Robert Soldner, Director, School Management Services, (608) 266-7475 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Copies of Rule and Contact Person

The administrative rule and fiscal note are available on the internet at <http://dpi.wi.gov/pb/rulespg.html>. A copy of the proposed rule and the fiscal estimate also may be obtained by sending an email request to lori.slauson@dpi.wi.gov or by writing to:

Lori Slauson
Administrative Rules and Federal Grants Coordinator
Department of Public Instruction
125 South Webster Street — P.O. Box 7841
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above mail or email address no later than November 2, 2009, will be given the same consideration as testimony presented at the hearing.

Analysis Prepared by the Department of Public Instruction

Statute interpreted

Section 119.23 (2) (a) 3., Stats.

Statutory authority

Sections 119.23 (2) (a) 3. and (11) and 227.11 (2) (a), Stats.

Explanation of agency authority

Section 119.23 (2) (a) 3., Stats., requires the department to, by rule, set the fee charged to private schools participating in the Milwaukee Parental Choice Program (MPCP) at an amount such that the total fee revenue covers the costs of employing one full-time auditor to evaluate the financial information submitted by the private schools.

Section 119.23 (11), Stats., requires the department to promulgate rules to implement and administer the MPCP.

Section 227.11 (2) (a), Stats., gives an agency rule-making authority to interpret the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

Related statute or rule

N/A

Plain language analysis

2009 Wisconsin Act 28, the 2009–11 biennial budget bill, made several modifications to the Milwaukee parental choice program under s. 119.23, Stats. Several of the modifications require that the department develop rules to implement the statutory provisions. One of those modifications requires the department to develop a rule to establish a nonrefundable fee to cover the cost of employing one full-time DPI auditor for the program. Each private school intending to participate in the program in the 2010–11 school year must pay the fee no later than February 1.

The rules:

- Require the department to establish the nonrefundable fee by December 1, 2009, for the 2010–11 school year and annually thereafter for subsequent school years.
- Set the nonrefundable fee by establishing a fee formula.
- Require that the private schools pay the nonrefundable fee to the department by cashier's check by February 1, 2010 for the 2010–11 school year and annually thereafter for subsequent school years.
- Allows the state superintendent to bar a private school from participating in the choice program if the private school fails to pay the nonrefundable fee.

Comparison with federal regulations

N/A

Comparison with rules in adjacent states

Illinois, Iowa, Michigan, and Minnesota do not have rules relating to private school voucher programs.

Summary of factual data and analytical methodologies

Because the cost of employing a full-time auditor to evaluate the financial information submitted by the private schools may change from year to year, the rules include a formula whereby a fee will be set annually. The fee should not change significantly from year to year but the formula will allow for flexibility if needed when establishing the fee.

2009 Wisconsin Act 28 requires the private schools to pay the fee by February 1 of the school year previous to the school year in which they plan to participate (see s. 119.23 (2) (a) 3., Stats.).

Analysis and supporting documents used to determine effect on small business

N/A

Anticipated costs incurred by private sector

N/A

Small Business Impact

The proposed rules will have no significant economic impact and are not anticipated to have a fiscal impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Fiscal Estimate

A nonrefundable fee will be charged to private schools participating in the Milwaukee Parental Choice Program (MPCP) to cover the costs of employing one full-time auditor to evaluate the financial information submitted by the private schools under the program.

The fee charged (due November 1, 2009) to schools participating in the 2009–10 school year will be determined by dividing the cost of the full-time auditor position by the number of schools that submitted information required on September 1, 2009 (rounded to the nearest dollar). Assuming

a full-time auditor would be hired by October 1, 2009, the cost of his or her employment for the first year (October 1, 2009 — June 30, 2010) would be approximately \$111,400. Assuming 125 schools will be participating in the MPCP, the approximate fee to be charged would be \$891 per school ($\$111,400 \div 125 = \891).

The fee charged (due February 1, 2010) to schools indicating an intent to participate in the 2010–11 school year will be determined by dividing the cost of the full-time auditor position by the number of schools that submitted information required on the previous October 1 (rounded to the nearest dollar). The cost of a full-time auditor for one year (July 1, 2010 — June 30, 2011) would be approximately

\$146,200. Assuming 125 schools will be participating in the MPCP, the approximate fee to be charged would be \$1,170 per school ($\$146,200 \div 125 = \$1,170$).

Based on this amount, it is assumed the rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

These rules have no local fiscal effect.

Agency Contact Person

Robert Soldner, Director
School Management Services
Phone: (608) 266–7475
Email: robert.soldner@dpi.wi.gov

Submittal of Proposed Rules to the Legislature

Please check the Bulletin of Proceedings — Administrative Rules for further information on a particular rule.

**Architects, Landscape Architects, Professional
Engineers, Designers and Land Surveyors**
CR 09-032

A rule-making order to create Chapter A-E 10, relating to continuing education for land surveyors.

DFI-Bkg 47, relating to the transition from a registration system to a license system under subch. III of Ch. 224, Stats., branch offices, mortgage broker agreements, surety bonds and trade names.

Financial Institutions — Banking
CR 09-060

A rule-making order to revise Chapters DFI-Bkg 40 to 44, to repeal Chapter DFI-Bkg 45, and to create Chapter

Transportation
CR 09-058

A rule-making order to revise Chapter Trans 315, relating to safety belt medical use exemption.

Rule Orders Filed with the Legislative Reference Bureau

The following administrative rule orders have been filed with the Legislative Reference Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication date of these rules could be changed. Contact the Legislative Reference Bureau at bruce.hoesly@legis.wisconsin.gov or (608) 266-7590 for updated information on the effective dates for the listed rule orders.

Children and Families

Family and Economic Security, Chs. DCF 101–153

CR 09–036

Revises Chapter DCF 150, relating to medical support and child support guidelines review.
Effective 1–1–10.

Dentistry Examining Board

CR 09–007

Revises Chapters DE 1 and 2 and repeals Chapter DE 4, relating to licensure of foreign trained dentists.
Effective 11–1–09.

Natural Resources

Fish, Game, etc., Chs. NR 1—

CR 08–083

Repeals section NR 27.03 (2) (b) 2. and (3) (b) 8., relating to the Wisconsin lists of endangered and threatened species.
Effective 11–1–09.

Veterans Affairs

CR 09–026

Revises section VA 2.01 (2) (a), (b), (3) (b) and (c), relating to the Assistance To Needy Veterans Grant Program.
Effective 11–1–09.

Rules Published with this Register and Final Regulatory Flexibility Analyses

The following administrative rule orders have been adopted and published in the September 30, 2009, Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.

For subscription information, contact Document Sales at (608) 266-3358.

Commerce

Licenses, Certifications and Registrations,

Ch. Comm 5

CR 08-110

Revises Chapter Comm 5, relating to building contractor registration. Effective 10-1-09.

Summary of Final Regulatory Flexibility Analysis

The rules require the registration of individuals and entities that act as building contractors or subcontractors who are involved in the construction or modification of public buildings, places of employment, public swimming pools and water attractions, and one- and 2- family dwellings and who are not already credentialed by the department. The department currently credentials several contracting trades, including dwelling contractors, HVAC contractors, electrical contractors and elevator contractors. The rules would apply to those persons and entities engaged in the business of commercial general construction, drywall, plastering, electrical wiring, finish carpentry, flooring, framing carpentry, glass and glazing, insulation, masonry and stone work, plumbing, concrete work, roofing, siding, building site preparation and/or stabilization, structural steel, tile and terrazzo, wall coverings, and other building or equipment specialties.

Summary of Comments by Legislative Review Committees

No comments were received.

Employee Trust Funds

CR 08-026

Revises sections ETF 10.08 and 50.30, relating to termination of employment and administrative leave of absence. Effective 10-1-09.

Summary of Final Regulatory Flexibility Analysis

The rule has no significant effect on small businesses because only governmental employers and their employees may participate in the benefit programs under Ch. 40 of the statutes administered by the Department of Employee Trust Funds.

Summary of Comments by Legislative Review Committees

No comments were reported.

Insurance

CR 09-027

Revises section Ins 2.81, relating to use of the 1980 CSO Standard Ordinary Life Valuation Mortality Table in determining the minimum standard of valuation reserves and the minimum standard nonforfeiture values for preneed funeral life insurance products. Effective 10-1-09.

Summary of Final Regulatory Flexibility Analysis

The Office of the Commissioner of Insurance has determined that this rule will not have a significant economic impact on a substantial number of small businesses and therefore a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

No comments were received.

Labor and Industry Review Commission

CR 09-014

Revises Chs. LIRC 1 to 4, relating to practice and procedure before the commission. Effective 10-1-09.

Summary of Final Regulatory Flexibility Analysis

The commission's rules of procedure affect small businesses when they are parties to cases pending before the commission. The rule changes simply clarify existing rules and are not anticipated to have any effect on small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Natural Resources

Environmental Protection — Air Pollution Control,

Chs. NR 400—

CR 07-082

Revises Chapters NR 404 and 484, relating to ambient air quality standards. Effective 10-1-09.

Summary of Final Regulatory Flexibility Analysis

The adopted rule revisions will modify Wisconsin's ambient air quality standards for particulate matter. These rules contain no new requirements (compliance, reporting, etc.) for any sources, including those classified as small business. These rule revisions are needed to make Wisconsin's ambient air quality standards the same as the federal national ambient air quality standards, as required

under s. 285.21 (1) (a), Stats. Consequently, the Department had limited flexibility to make any changes to these rule revisions.

Summary of Comments by Legislative Review Committees

In the 2007 Legislative session, the rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Natural Resources. On June 18, 2008, the Assembly Committee on Natural Resources held a public hearing and executive session. In a letter dated June 19, 2008, the Assembly Committee on Natural Resources requested that the Department consider modifications to repeal the existing standard for total

suspended particulates. The Department responded to the Committee on June 30, 2008, agreeing to consider the requested modifications.

Because the jurisdiction of the committees assigned for the 2007 Legislative session had not been concluded by the end of the session, this Clearinghouse Rule was referred to the Assembly Committee on Natural Resources and the Senate Committee on Environment for the 2009 Legislative session. The Chair of each committee was notified through a letter dated June 3, 2009, that the Department had decided not to modify the rules as requested. No further action was taken by either committee.

Sections Affected by Rule Revisions and Corrections

The following administrative code sections had rule revisions and corrections take place in **September 2009**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Legislative Reference Bureau at (608) 266-7590.

Revisions

Commerce

Ch. Comm 5

Comm 5.01 (4) (i)
Comm 5.02 Table
Comm 5.06 Table
Comm 5.30
Comm 5.31 (1) (a), (4), (5)
Comm 5.31 (5)
Comm 5.327 (3), (4)
Comm 5.33 (7) (b)
Comm 5.34 (5) (d)
Comm 5.35 (6) (c)
Comm 5.36 (4) (b)
Comm 5.41 (3) (c)
Comm 5.42 (4)
Comm 5.60 (5) (c)
Comm 5.61 (6) (b)
Comm 5.62 (7) (b)
Comm 5.63 (6) (b)
Comm 5.66 (6) (b)
Comm 5.70 (4)
Comm 5.9905 (4) (e)

Ch. Comm 61

Comm 61.295

Employee Trust Funds

Ch. ETF 10

ETF 10.08 (2) (b)

Ch. ETF 50

ETF 50.30 (4)

Insurance

Ch. Ins 2

Ins 2.81 (2), (3) (em), (j), (4) (a), (b), (8), (9)

Labor and Industry Review Commission

Ch. LIRC 1

LIRC 1.025 (3), (4)

Ch. LIRC 2

LIRC 2.05

Ch. LIRC 3

LIRC 3.05

Ch. LIRC 4

LIRC 4.04 (1)

Natural Resources

Ch. NR 404

NR 404.02 (4e)

NR 404.04 (8), (9)

Ch. NR 484

NR 484.03 (5) in Table 1

NR 484.04 (6), (6g), (6r) in Table 2

Editorial Corrections

Corrections to code sections under the authority of s. 13.92 (4) (b), Stats., are indicated in the following listing.

Commerce

Ch. Comm 61

Comm 61.60 (5) (f)

Employee Trust Funds

Ch. ETF 10

ETF 10.10 (6)

Natural Resources

Ch. NR 219

NR 219.04 Table B

Executive Orders

The following are recent Executive Orders issued by the Governor.

Executive Order 289. Relating to a Proclamation Declaring a State of Emergency Relating to Drought Conditions.

Executive Order 290. Relating to a Proclamation That the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for United States Senator Edward M. Kennedy.

Executive Order 291. Relating to a Proclamation That the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff to Commemorate the Eight Year Anniversary of the Terrorist Attacks on the United States.

Public Notices

Department of Health Services

Medical Assistance Reimbursement of Physicians and Related Health Care Providers

The State of Wisconsin reimburses physicians and related professional health care providers for medically necessary services provided to low-income persons through the State's Medical Assistance and BadgerCare Plus programs. The State's Medical Assistance and BadgerCare Plus programs are administered by the Wisconsin Department of Health Services (the Department) and operate under the authority of Title XIX and Title XXI of the Federal Social Security Act and chapters 49.43 to 49.47 of Wisconsin Statutes.

The Department is adjusting maximum allowable fees for approximately 600 physician services to pay no more than Medicare. Fee adjustments will be effective October 1, 2009. A forthcoming ForwardHealth Update will provide additional details on the fee adjustments.

The fee adjustments for the approximately 600 physician services are projected to reduce physician-related expenditures by an estimated \$16.5 million All Funds over the current state biennium (July 1, 2009 through June 30, 2011).

Written Comments

For more information or to submit written comments on the proposed changes, interested persons may fax or write to:

Division of Health Care Access and Accountability
P.O. Box 309
Madison, WI 53701-0309
Fax: (608) 266-1096

Copies of the proposed changes and comments received on the changes will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. at:

Division of Health Care Access and Accountability
Room 350, State Office Building
One West Wilson Street
Madison, WI

Copies of the proposed changes will also be made available for review at the main office of any county department of social services or human services.

The State of Wisconsin
Department of Administration
Bureau of Document Services
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